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# Studies and Notes supplementary to Stubbs' Constitutional History

## II

BY

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## PREFACE.

As was foreshadowed in M. Petit-Dutaillis' preface to the French translation of the first volume of the "Constitutional History" of bishop Stubbs, the second volume, of which the French version appeared last year, has been found to need much less revision of the kind for which footnotes are inadequate. Instead of the twelve additional Studies and Notes of volume I, which were translated by Mr. W. E. Rhodes and published under my editorship by the Manchester University Press in 1908, M. Petit-Dutaillis has thought it unnecessary to append to volume II more than two such studies. The subjects with which they deal, "The Forest" and "The Causes and General Characteristics of the Rising of 1381" are, however, treated with such thoroughness as to provide sufficient matter for another volume of "Supplementary Studies." In his preface M. Petit-Dutaillis holds out the hope that his additions to the third volume of Stubbs' work will be concerned with questions more directly constitutional; but the Forest played a part in the contest between the English crown and people which makes the inclusion of the first essay in these studies quite appropriate, while the many additions that have been made to our knowledge of the Peasants' Revolt since Stubbs wrote constitute a sufficient justification for the second. The translation of the two studies has been made by my friend and colleague Mr. W. T. Waugh, and my duties as editor have been exceedingly light. As in the first volume, a few footnotes have been added in square brackets, in most cases by Mr. Waugh, who has also adapted the index from the one made by M. Lefebvre for the French edition.

JAMES TAIT.

THE UNIVERSITY,
MANCHESTER,
*July 10th, 1914.*

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# THE FOREST.

THE institution of the Forest, established by the Norman kings and maintained by the Plantagenets, has strong claims on the attention of the historian. Not only, as an institution very characteristic of the times, does it throw valuable light on certain features of mediæval society, law, and administration; but the fact of its existence led to important results in the constitutional crises of the thirteenth and fourteenth centuries. One may regard the Forest as a melancholy and decisive witness to the brutality of the Norman Conquest, as an illustration of the despotic authority of the Norman and Angevin kings, as a cause of the hostility of the barons and higher clergy towards the crown, or as a ground for the hatred felt by the people towards the king's officers. But from every point of view the Forest is equally worthy of study.

**Interest of the subject**

Stubbs did no more than touch upon the subject, and, as far as we know, the history of the Forest in mediæval England has never been treated in its entirety on the general lines which we wish to follow. Our intention is to set forth the most important of the results that have been achieved. We have used such printed records—whether published in full or calendared—as we have been able to consult, and several valuable works of modern scholarship, among which special mention should be made of Dr. F. Liebermann's critical essay on the *Constitutiones de Foresta* ascribed to Cnut, and

Mr. G. J. Turner's study on the Forest in its legal aspect during the thirteenth century. In addition, the interest of the task has led us to make cautious expeditions into the realm of comparative history. In seeking the origins of the English Forest we have turned to the Continent, where they are certainly to be found, and occasionally we have drawn a parallel between the evolution of the Forest in England and the corresponding process in France.

**Use of the comparative method**

(1)

# THE FOREST AND THE RIGHT OF THE CHASE IN MEDIÆVAL ENGLAND.—ORGANISATION OF THE FOREST.

**Meaning of the word "forest"**

We have first to ask what meaning was attached in England to the word "Forest," in its legal sense,[1] as used, for example, in the phrase "Forestas retinui" in the charter of Henry I, or in such expressions as "bosci afforestati," "manere extra forestam," which appear in the charter of 1217.

**Definition in the "Dialogus de Scaccario"**

As early as the time of Henry II, Richard Fitz-Neal, in his *Dialogus de Scaccario*, gave a very clear definition of the Forest. It consists, he says, in preserves which the king has kept for himself in certain well-wooded counties where there is good pasture for the venison. There the king goes to forget his cares in the chase; there he enjoys quiet and freedom: consequently those who commit an offence against the Forest lay themselves open to the personal vengeance of the king. Their punishment is no concern of the ordinary courts, but depends entirely on the king, or his specially appointed delegate. The laws of the Forest spring "not from the common law of the realm, but from the will of princes; so that what is done in accordance with them is said not to be just absolutely, but just according to the forest law."[2] The nature of the Forest could not be more clearly stated, and the definitions given by Manwood in the sixteenth century and Sir Edward Coke in

1. The word is also used, even by lawyers, in its modern sense of a tract covered with trees; the author of the *Dialogus de Scaccario* writes, "Reddit compotum. . . . de censu *illius nemoris vel foreste*. . . ." (*Dialogus de Scaccario*, II. xi; ed. Hughes, Crump, and Johnson, 1902, p. 141).

2. *Dial. de Scacc.* I. xi, xii; ed. cit. 105 sqq.

the seventeenth, are based on those formulated by Richard Fitz-Neal.[1]

The word *Forest*, adds the author of the *Dialogus*, comes from *fera*, wild beast, *e* being changed to *o*. Fanciful though it be, this derivation is deduced from a perfectly correct notion: in law and in fact, if not in etymology, the Forest owed its origin to sport. The Forest or the Forests—the word was used, in the middle ages, in both the plural and the singular—consisted of a number of game-preserves protected by a special law. They were mostly covered with woods, but also included moorland, pasture, and even agricultural land and villages.[2]

**The Forest is a hunting-preserve**

The Forest, as such, belonged to the king. It must not, indeed, be confused with the royal demesne: for there were royal woods which were not Forest, and on the other hand, a forest often comprised estates which were the property of subjects, even of great lords. But it belonged to the king in the sense that it was created for his benefit, that within its limits none save himself and those authorised by him might hunt the red deer, the fallow deer, the roe, and the wild boar,[3] and

**In what sense does the Forest belong to the crown?**

1. "A forrest doth chiefly consist of these foure things, that is to say, of vert, venison, particuler lawes and priviledges, and of certen meet officers appointed for that purpose, to thend that the same may the better be preserved and kept for a place of recreation and pastime, meet for the royall dignitie of a prince" (Manwood, *Treatise of the Lawes of the Forrest*, 1598, f. 1); "A Forest doth consist of eight things, videlicet of soil, covert, laws, courts, judges, officers, game, and certain bounds" (Coke, *Fourth part of the Institutes of the Laws of England*, ed. 1644, p. 289).

2. The word *forestis, foresta*, which is found in Merovingian documents of the seventh century, comes, according to Diez, from the Latin *foris*, and already meant a district placed *outside*, or preserved, by royal command. This etymology is quite in accordance with the sense of the word Forest in England, but after a careful study of Merovingian records, I am doubtful whether to accept it.

3. These four were generally considered to be the "beasts of the Forest" to which the forest law applied. The list varied somewhat in different times and places. See the very learned and sound paper of F. Liebermann, *Ueber Pseudo-Cnuts Constitutiones de Foresta*, 1894, p. 20; G. J. Turner, *Select Pleas of the Forest* (Selden Society, 1901), x sqq. From the time of the first Norman kings neither the wolf nor the fox was regarded as a beast of the forest. John of Salisbury says that they were not hunted according to the rules of venery (Liebermann, p. 23).

that it was subjected, throughout its extent, to very severe laws, enacted arbitrarily by the kings for the protection of the "vert and venison," that is to say for the preservation of the beasts of the Forest and the vegetation which gave them cover and food.[1]

**Chases and royal parks**

In mediæval documents mention is also made of the king's *parks* and *warrens*, and sometimes of his *chase*. There was, in our opinion, no real difference between the king's chase and the Forest.[2] Parks were distinguished by the fact that they were enclosed by a wall[3] or fence.[4] But the records published by Mr. Turner show that the royal parks formed part of the Forest,[5] that they were under the oversight of foresters,[6] and that offences committed in them were punished in the same way as forest offences:[7] and in these respects isolated royal parks must have been in the same case as those surrounded by Forest. As the king's object in making a park was the better preservation of his game, it would be absurd if the forest law were not applicable to it. It is well to insist on this point, for English historians have vied with one another

1. If the king alienated a part of his Forest the forest law might still be applied to it for the benefit of the new owner. This was the case in the forests held by the earls of Lancaster in the fourteenth century (Turner, pp. ix, cxi sqq.). But as a rule the forest, in such an event, became a chase (see below, p. 154).

2. According to W. H. P. Greswell, *Forests and Deer Parks of the County of Somerset* (1905), p. 244, the chase was not subject to the forest law. He gives no proof of this, and admits that in certain documents the Forest of Exmoor is called the Chase of Exmoor. Kingswood Forest in Essex is another case in point. In 1328 J. le Warre complained that some years before the "gardeins de la chace" had put his manor "en la chace de Kingeswode et de Fulwode"; so that he no longer had the right to cut his wood (*Rotuli Parliamentorum*, ii, 29). Kingswood was part of the forest of Essex (Turner, p. 69). Mr. Turner's remarks on chases (*ibid.*, pp. cix sqq.) apply only to the chases of feudal lords.

3. "Fregit murum parci et intravit eum cum canibus" (Turner, p. 40).

4. "Operarii in parco predicto ad reparandum palicium" (*ibid.*, p. 55).

5. "Venacio data per dominum regem: . . . comes Cornubye venit in foresta de Rokingham . . . et cepit in parco et extra parcum bestias ad placitum. . . . ." (*ibid.*, p. 91).

6. "Willelmus, forestarius pedes in parco de Bricstoke" (*ibid.*, p. 83). These foresters were sometimes styled parkers (*ibid.*, p. 55).

7. *Ibid.*, pp. 4, 54 sqq., etc.

in repeating that parks were not subject to the forest law.[1] In this general form, the statement is false: a distinction should be made between the royal parks and those of the lords.[2]

**Royal warrens**

The position of the royal warrens has never, as it seems to me, been accurately stated. It is clear that the word bore another meaning than the one it had in France,[3] and was applied especially to land reserved for hare-hunting. It would, however, be too much to say that royal warrens were entirely exempt from the forest law,[4] for in the *Placita foreste* we find thefts of hares from a warren judged by the same process as poaching in the Forest.[5] Even in Middlesex there was

1. See, e.g., W. S. Holdsworth, *History of English Law* (1903), i, 346; MacKechnie, *Magna Carta* (1905), p. 493.

2. The treatise of Mr. Turner, who possesses well-deserved authority on the subject of the forest law, does not tend to prevent this confusion. Although royal parks often appear in the documents he has edited, he deals in his introduction only with the parks of subjects. It is of these that he is speaking when he says (p. cxxii): "The park was not subject to the forest law."

3. In France itself the meaning of the word changed—a fact which has caused many blunders. It was only in the sixteenth century that "garenne" acquired the almost exclusive sense of rabbit-preserve. See the remarks of Olivier de Serres, *Théâtre d'Agriculture*, ed. 1805, II., 62 sqq. There were certainly "garennes à connins" in the Middle Ages, but the word "garenne" had the quite general meaning of "game preserve." See, among others, a document published in De Maulde, *Condition forestière de l'Orléanais*, p. 491: "... ius habendi garennam ad *grossum animal*"; and an *arrêt* of the Parlement of Paris, dated 1270, in *Olim*, I., 835, no. xlix: "... in loco ubi rex habet garennam suam ad grossam bestiam et minutam."

4. As Mr. MacKechnie asserts (*Magna Carta*, p. 493).

5. From the examples in the documents published by Mr. Turner, we have selected three of different periods: i. In 1209, in the pleas of the Forest held at Shrewsbury, Hamon Fitz-Marescat was tried for stealing hares in the warren of Bulridge (Turner, p. 10).—ii. In 1255: the offence was the theft of four hares in the warren of Somerton; the presentment was made by the verderers; the chief offender being a clerk of the king's court, the case was adjourned. The inquisition had been held in the ordinary way (pp. 41 sqq.). The title of the document from which this illustration is drawn runs: *Placita foreste in comitatu Sumerset*, and the sub-title: *Placita de warrena de Sumerton*. The document also summarises an inquisition held concerning a hare found dead, and conducted like inquisitions on beasts of the Forest found dead.—iii. In 1286: *Placita Foreste apud Huntyndone. ... Placita warrenne de Cantebrigge* (pp. 129—131). This record is the most elaborate of the three,

a warren which was entirely subject to the forest law.[1] Such cases were, however, exceptional. Offences against rights of warren had, as a rule, to be tried in the ordinary courts of law.

**The king's right of warren**

The question whether all the royal demesne was regarded as warren has been investigated by Mr. Turner, who concludes that the king would probably not consider his own lands to be warren unless they were sufficiently well stocked with game to make hunting worth while.[2] Nevertheless we find Edward I taking care to specify in 1305 that he had right of warren on all his demesne lands.[3] From the beginning of the Norman period, moreover, private warrens had existed only by royal grant. It may safely be inferred from this that the king could claim right of warren over the whole realm. And as a matter of fact, he did establish warrens for himself in all parts: as late as the end of the thirteenth century he is found defending his right of warren in lands which did not belong to his demesne.[4]

In short, the king apparently claimed the right of the

and also the most striking, for it certainly looks as if this Cambridge warren lay quite apart from any forest. Evidently a large number of arrears had to be cleared off and delicate points decided. The justices of the Forest, sitting at Huntingdon, tried a large number of cases of hare-poaching and gave decisions on claims put forward by the inhabitants. See below, n. 4.

1. In 1227 Henry III disafforested the warren of Staines, in Middlesex. His charter shows that the warren had been subject to the forest law (Turner, p. cviii; cf. *Rot. Lit. Claus.* II., 197).

2. Turner, p. cxxxiii.

3. *Statutes of the Realm*, i, 144.

4. We have a very characteristic document of 1286 concerning the royal warren at Cambridge: "Johannes Extraneus, dominus de Middilton, Warinus de Insula, dominus de Ramton, et templarii de Daneye clamant habere libertatem warrenne in terris suis infra warrenam predictam domini regis; et sepius cum leporariis suis ceperunt plures lepores in eisdem terris suis pro voluntate sua. . . . Ideo preceptum est vicecomiti quod faciat venire predictos Johannem et Warinum et eciam preceptorem ad ostendendum warantum si quod inde habeant, vel ad satisfaciendum domino regi de transgressione predicta . . . " (Turner, pp. 130—131.) See also (p. 131) the claim of the Abbot of Ramsey.

chase in every part of his realm.[1] In his view, this right entitled him to hunt small game, not only on the whole of his demesne, but also in the warrens which he had on the estates of his barons. But he preferred a nobler quarry, and so set apart for himself vast preserves for larger game. These were called Forests or Chases, and Parks when they were enclosed; and he established a code of forest law to protect them.

**Hunting rights of the king's subjects**

We now come to the hunting-rights possessed by the king's subjects. Apart from royal grants of the right to hunt in the Forest,[2] the barons and prelates had "chases," "parks," and "warrens" of their own. The chases of the lords were generally parts of the Forest which had been alienated by the king: in a sense the grant did not involve complete disafforestment, for the burdens imposed on the inhabitants were maintained, at least in part, for the benefit of the recipient.[3] The parks of the lords, on

1. The matter is obscure, and in our opinion was a question of fact rather than of law. English writers on feudal law have tried to formulate theories about it. Blackstone asserts that all the game in the realm belongs to the king, and that nobody therefore may hunt without his permission. Christian, however, in his notes on Blackstone, cites documents which contradict this view, notably the following ancient pronouncements of English law: "Quant beastes savages le roye aler hors del forrest, le property est hors del roy . . . s'ilz sount hors del parke, capienti conceditur" (Blackstone, *Commentaries*, 17th ed., bk. II., cap. xxvii, n. 10).

The following passages leave the impression that contemporaries had rather vague notions as to the rights of the king over game which had strayed from forests and parks: "Quedam dama evasit de parco domini regis . . . et venit quidam homo domine Hugeline de Neville cum duobus leporariis, et prosequebatur dictam damam et cepit eam in campo de Pizeford, et duxit dictam venacionem secum in domo domine Hugeline. Set non possunt attachiari quia manent extra forestam." As an inquisition was held, it was evidently thought that an offence had been committed (Turner, p. 90, under the year 1250). "Dicunt per sacramentum suum quod homines comitis de Ferrariis fugaverunt unum brokettum dami infra libertatem usque ad aquam subtus Wodeford. Et brokettus ibi transivit aquam et resistit in quodam butimine extra Wodeford, et ibi custoditus fuit per villatam quousque Ricardus de Audewincle, viridarius, venit et per ipsum et per villatam ductus fuit ad forestam salvus et sanus" (*ibid.*, p. 105, under the year 1252).

2. Numerous examples of these grants are to be found in the close rolls.

3. Turner, pp. cix sqq.

the other hand, though they were sometimes situated in districts which had formerly been forest, were not under the forest law. Provided that the king's hunting was not injured, a landowner was at liberty to make a park and hunt there at his pleasure.[1] Sometimes the king made a gracious present of bucks and does to stock a park.[2] As for the warrens in private hands, they were unenclosed tracts on a lord's demesne,[3] where he hunted other game than the beasts of the Forest—hares in particular, but also rabbits, foxes, wild cats, partridges, pheasants, and so forth. If noble game, like a buck, took refuge in a warren, the hunters might follow it there from outside without restriction, for it was not a beast of the warren. Warrens, as we have already said, were established by royal charter. Thus the abbot and monks of Battle had right of warren on all their lands by charter of William the Conqueror: they alone, that is to say, might hunt the beasts of the warren. It was laid down in these charters, that every breach of the right of warren was punishable by a fine of ten pounds to the king.[4]

Outside these various preserves, royal and other, it appears that the chase was free in England during the middle ages. On this point the evidence, though naturally meagre, is sufficiently convincing.[5] It was

1. Turner, pp. cxv sqq.

2. "Per breve, magister Simon de Wauton fecit capere in foresta de Rokingham octo damas et quatuor damos vivos, de dono domini regis, ad parcum suum instaurandum" (Anno 1253, *ibid.*, p. 106).

3. The king was in general opposed to the "elargacio" of a seignorial warren over the lands of the lord's free tenants or the lands of his neighbours (Turner, p. cxxv).

4. *Ibid.*, pp. cxxiii sqq.; cf. *Rot. Parl.* ii, 75 *b*.

5. As to lands where the chase was free, besides the documents cited by Turner (pp. cxxiii, n. 1, cxxviii, cxxx, cxxxiii) see *Rot. Parl.* i, 330a, no. 207, and in particular certain charters of disafforestment granted by John, notably the one in which he concedes the disafforestment of a district in Essex: "ita quod tota foresta infra predictas metas contenta et homines ibi manentes et heredes eorum sint deaforestati et liberi et soluti et quieti in perpetuum de nobis et heredibus nostris de omnibus que ad forestam et forestarios pertinent, *et quod capiant et habeant omnimodam venationem quam capere poterint infra predictas metas*" (*Rot. Chartarum*, ed. Hardy, p. 123. Cf. *ibid.*, pp. 122, 128, 132, 206).

only at the end of the fourteenth century that the idea—long entertained by the nobility[1]—of depriving the common people of the right to hunt game, made its appearance in English law.

**Importance of the question of the right of the chase**

In order to form an accurate estimate of the extent and validity of the grievances of the nation against the crown, future writers on the Forest will have to dispel the obscurity which surrounds this question of the right of the chase in England. And with their treatment of the Forest they must combine that of the warrens, just as the two are connected in article 48 of the Great Charter.[2]

**The forest organisation**

We come now to a subject which is better known—the organisation of the Forest at the time of its highest development, that is, during the rule of the first Plantagenets. Stubbs dealt with the subject;[3] but Mr. Turner's excellent study has given us more exact knowledge and corrected certain mistakes. From it we have drawn most of the short sketch which follows, and the reader may be referred to it for all that concerns the details of forest procedure.

**The protection of the Forest**

Nobody had the right, without royal permission,[4] to take any of the game, wood, or pasture of the Forest—not even the baron or freeholder on his own land, if that land lay within the bounds of a forest. "Those who dwell within the Forest," writes the author of the *Dialogus de Scaccario*, "do not take of their own wood, even for the necessities of their house, except under the view of those who are appointed to keep the Forest."[5] The right of cutting

1. Cf. Liebermann, *Pseudo-Cnut*, pp. 45, 47.

2. "Omnes male consuetudines de forestis et warennis, et de forestariis et warennariis . . . "

3. *Const. Hist.*, vol. i (ed. 1903), pp. 434 sqq.

4. For authorisations to make clearings or enclosures, and the preliminary inquiries, see W. R. Fisher, *Forest of Essex*, pp. 321–2. On permission to take game see below, pp. 187-188.

5. *Dialogus*, I. xi, pp. 102-3.

**Trespasses to the vert: waste, assart, and purpresture**

wood, whether for fuel or making repairs, was narrowly restricted: anyone who exceeded his customary rights committed the crime of "waste" (*vastum*); he had to pay a composition in order to keep the wood he had cut, and was amerced whenever the itinerant justices came round, until the damaged trees had grown to their former state. If trees were uprooted to turn woodland into arable or merely to gain a few square feet of soil, a fine was inflicted; and though the offender was not required to plant other trees, he had to pay a composition on every crop raised on this "assart." This system of converting a punishment into an annual rent and an offence into a permanent source of revenue is extremely characteristic. The chase was certainly the parent of the Forest, but it is nevertheless true that this institution quickly acquired a financial significance; the king was even more concerned to secure an income at the expense of the inhabitants of the Forest than to prevent the destruction of wood. Furthermore, there was the crime of "purpresture," committed whenever, by enlarging a field, making a mill or a fishpond, a hedge or a ditch, anyone encroached on the domain of the king's deer or restricted their movements.[2] The offender was fined, and might only keep the land he had gained, or the works he had constructed, by payment of a further sum. As for the destruction of game, it was punished more or less severely, according to the period, and it was guarded against by vexatious rules to which we shall return later.

**Trespasses to the venison**

1. [Much welcome light is thrown on forest finance by Miss Margaret L. Bazeley in her recently-published monograph, *The Forest of Dean in its Relations with the Crown during the Twelfth and Thirteenth Centuries* (Transactions of the Bristol and Gloucestershire Archæological Society, vol. xxxiii, pp. 153 sqq.). It appears that the financial resources of this forest were not properly exploited until the 13th century.]

2. *Porprestura* has the general meaning of "encroachment," "usurpation." See the passage from Glanvill cited by Du Cange, s.v. *porprendere*. A clear distinction was not always made between the offence of "assart" and that of "purpresture."

The supervision of the Forest and the punishment of offences were provided for by a complicated system of officials and institutions—functionaries appointed by the king, commissioners and jurors chosen by election, officers who held their posts by hereditary right, investigations by commissions of enquiry, local courts, and eyres of itinerant justices.

**The forest officials**

At the head of the forest administration we find the *capitalis forestarius* mentioned in the charter of 1217, or else two high dignitaries, who in the thirteenth century had the title of justices. From 1238 onward, it was usual for the Forest to be administered in this way by two justices, one for the district north, the other for that south, of the Trent.[1]

**The head of the administration**

Each of the forests, or each group of forests, was administered by an official who was called warden, bailiff, seneschal, or chief forester.[2] His post was sometimes hereditary,[3] but even in this case he might be removed. When the warden was appointed by letters patent, the same document often conferred on him the custody of the castle of the district.[4]

**The wardens**

Besides the warden, there were in most of the large forests one or more *forestarii de feodo, foresters de fé,* who likewise saw to the preservation of the vert and the venison, and executed the decisions of the itinerant justices. They

**The foresters-in-fee**

1. Turner, pp. xiv sqq. [Mr. Turner has printed a list of the justices of the forests south of the Trent (1217-1821) in *Eng. Hist. Rev.* 1903, pp. 112-116.]

2. Turner, pp. xvi sqq. On the rights possessed by the wardens see *ibid.*, pp. 66-7, and the passage quoted in the Introduction, p. xxi, n. 1. Cf. an interesting document of the fourteenth century (*Rot. Parl.* ii, 79).

[In the French the official under discussion is termed the *chef-forestier.* Following Mr. Turner (Introd., p. xvi) I shall refer to him as the "warden."]

3. As in the case of John Fitz-Nigel, whose duties and rights were determined by an inquisition of 1266. In return for the profits which were guaranteed to him, he paid the king forty shillings a year and kept the forest of Bernwood (Turner, pp. 121-2).

4. Turner, *Introd.*, p. xvii. [See also Miss Bazeley's excellent account of the rights and duties of the warden in the Forest of Dean (*op. cit.* pp. 175—191).]

possessed certain rights over the Forest. Some, but not all, paid a ferm to the king.[1] They were not always bound to obey the warden.[2] Some, without doubt, had been enfeoffed by the king, and owed submission to him only; others had been enfeoffed by the warden.[3] Occasionally a whole forest would be put under the custody of a forester-in-fee; his office would then be merged in that of warden. An instance was the office of forester-in-fee of the forests of Somerset, which was held in the fourteenth century by the family of Mortimer.[4]

**Under-foresters**

The ordinary foresters were game-keepers who pursued and arrested offenders. A distinction is often made between mounted foresters and under-foresters who went on foot.[5] They were chosen by the wardens, or, in some districts, by the foresters-in-fee, but they took an oath of fidelity to the king.

**Woodwards**

There were also private foresters, called woodwards, who guarded the woods held by subjects within the limits of the Forest: they were bound by oath to preserve the vert and venison for the king's hunting; and if they failed to do so, the wood was confiscated.

**Agisters**

Each forest, moreover, had as a rule four *agistatores*, charged with the oversight of the *agistment* of the cattle and swine in the

1. Turner, pp. xxiii-iv, only touches upon the question of foresters-in-fee. Interesting details will be found in Greswell, *Forests of Somerset*, pp. 136 sqq. In *Fleta*, a legal treatise written about 1290, there are curious rules for the conduct of inquisitions concerning foresters-in-fee (*Fleta*, lib. ii. c. 41, § 30). [Miss Bazeley gives some particularly interesting information about the nine foresters-in-fee of the Forest of Dean (pp. 191 sqq.). See especially p. 194, where their possessions and obligations are tabulated. All paid an annual ferm to the king; but in the thirteenth century they could assert no warrant for their jurisdiction "nisi antiqua tenura."]

2. A warden, Henry Sturmy, declared in 1334 that all the *forestarii de feodo* in his forest owed him obedience (*Rot. Parl.* ii. 79). This was therefore not the invariable rule.

3. "Hugo de Stratford, quondam forestarius de feodo de balliva de Wakefeud, reddidit per annum domino Johanni de Nevyle, tunc senescallo foreste, pro predicta balliva, ad firmam, duas marcas et dimidiam," etc. (Turner, p. 123).

4. Greswell, pp. 150 sqq.

5. Fisher, *Forest of Essex*, p. 137; Greswell, p. 144.

woods and fields, and with the collection of the rents exacted for pasturage.[1]

**Verderers**

The verderers belong to another class. They were knights or substantial landowners who had property in the Forest. They were elected in the county court, generally to the number of four in each forest, to attend the forest courts of justice. Once elected, they as a rule retained office for life.[2]

**Regarders**

Finally, the regarders were sworn knights,[3] charged with a temporary commission of enquiry. The functions of the verderers and regarders can best be understood by an examination of the working of the forest courts.[4]

Stubbs' sketch of the administration of justice in the Forest[5] is rather meagre and even wanting in accuracy.

**Forest justice. The swanimote**

The swanimote, which he represents as a court of justice corresponding to the county court, was only an assembly of the foresters, held to make arrangements about the pasture, to receive the rents which it brought in, and to take precautions against injury to the deer during the fawning season.[6] There were really only two kinds of tribunals—the court of attachment, *attachiamentum*, held as a rule in each forest every six weeks, and the court of the itinerant justices of the forests, *justiciarii itinerantes ad placita foreste*, who held an eyre in each forest every few years. The functions of the court of attachment were rather

**The court of attachment**

1. Turner, pp. xx sqq., xxiv sqq., xxvi. Du Cange, s.v. *agistare*.
2. Turner, pp. xix-xx, xxvi.
3. [Turner, pp. lxxv sqq.]
4. In regard to the following section, see the details given by Coke, *Fourth Institute*, ed. 1644, ch. lxxiii, pp. 289—320; Turner, pp. xxvii sqq. A very clear summary is given by W. S. Holdsworth, *History of English Law*, i, 342 sqq.
5. Stubbs, *Const. Hist.*, i. 437 sqq.
6. This appears clearly from § 8 of Henry III's Charter of the Forest. The misapprehension as to the nature of the swanimote originated with Manwood; cf. Turner, pp. xxvii sqq. The term "swanimote" is, however, sometimes applied to the courts of attachment and to the forest inquisitions.

administrative than judicial.[1] Only minor trespasses against the vert were punished there: people who had cut boughs, for instance, might be sentenced to a fine of a few pence. Important cases concerning the vert, and all concerning the venison, went before the justices in eyre.

**The court of the itinerant justices: preliminary proceedings**

We must now glance at the preliminary proceedings in the cases which were brought before the itinerant justices. When the offender was not caught in the act by the foresters, there were several types of inquisition by which he might be discovered. As early as the twelfth century and perhaps before, there took place every three years the *visitatio nemorum* or "regard."[2]

**The regard**

The regarders were twelve knights, appointed by the sheriff at the instance of the king. This commission of enquiry had to visit the Forest and investigate any offences that had been committed, basing their procedure on a list of questions which were called "chapters of the regard."[3] The chief chapters were those on assart, waste, and purpresture: others concerned the pasture on the demesne, the eyries of falcons and hawks, honey, forges and mines,[4] harbours,[5] the weapons and dogs of the inhabitants of the Forest.

1. *Attachiamentum* was the obligation to appear. The court of attachment was so called because its chief function was to "view the attachments" made by the foresters. "Et praeterea singulis annis quadraginta diebus per totum annum conveniant viridarii et forestarii ad videndum attachiamenta de foresta, tam de viridi quam de venacione, per presentacionem ipsorum forestariorum et coram ipsis attachiatis" (*Charter of the Forest*, § 8). At this court the attachments were enrolled, and the offenders found sureties for their appearance before the itinerant justices. Notwithstanding § 8 of the charter, Mr. Turner (pp. xxxv-vi) holds that as a rule the nomination of sureties was performed in the court of attachment only for trespasses against the vert, and not for those against the venison. See also p. xl.

2. "Imminente visitatione nemorum, quam reguardam vulgo dicunt, que tertio anno fit . . " (*Dial. de Scacc.* l. xi).

3. Turner, pp. lxxv-vi, mentions several versions of the chapters of the regard.

4. Because wood was needed to work forges and mines.

5. The records furnish instances of wood being stolen in a forest near the sea, and put on shipboard.

**The special inquisition**

As for poaching, at least from the beginning of the thirteenth century, and probably before, it was the occasion of special inquisitions which involved the whole countryside in trouble. If a beast of the Forest was found dead, an inquisition to discover the offender must be held by the four townships nearest the spot.

Poachers detected by the inquisition of the four townships, or surprised in the fact, were generally kept under arrest until they had found sureties for their appearance before the justices in eyre. In this way they sometimes spent a year or more in gaol. Persons accused of trespasses to the vert might also, in certain cases, be kept in detention.[1]

**Imprisonment and pledges**

The visitations of the justices were arranged by royal writ, nominating *justiciarii itinerantes* to hear and determine the pleas of the Forest in a particular county or group of counties. In the twelfth century the eyres occurred once in three years, since the regards took place at that interval and were held in view of the coming of the justices. In the time of Henry III they occurred about every seven years, like the eyres of crown pleas and common pleas; and the intervals between them became longer and longer.[2] The justices were persons of some eminence. One of the two Justices of the Forest was always of their number.

**Frequency of the eyre**

1. On this last point, see the details given by Turner, pp. xxiii sqq. According to the Assize attributed to Edward I, offenders against the vert were not liable to arrest and imprisonment until after their third "attachiamentum." (For the meaning of this word, see above.) "Post tercium attachiamentum corpus debet attachiari et retineri" (*Statutes*, i. 243). As a matter of fact, the itinerant justices of Edward I gave instructions in conformity with this rule: see the Provisions of the justices, at Nottingham, in 1287 (Turner, p. 63). Cf. the Assizes of Henry II and Richard I, cited below.

2. [See Miss Bazeley's list of eyres in Gloucestershire during the twelfth and thirteenth centuries (*op. cit.* p. 214). They were more frequent under Henry II than afterwards, though even at this early time, the intervals between them varied greatly. With respect to the thirteenth century, the list confirms the generalisations in the text.]

The itinerant justices dealt separately with the pleas of the vert and the pleas of the venison. The *presentment* was made by the foresters and verderers, not by a regular jury. The report of the inquisition was generally taken as sufficient proof of the facts; and it was seldom that the townships which had made the inquisition were required to come and confirm the evidence orally. In the thirteenth century convicted delinquents were fined, and if they did not pay, were sent back to prison till they found the money. If anyone cited failed to appear, he was summoned in the county court, and if he remained contumacious, was outlawed.

**Procedure at the forest eyre**

**Punishments inflicted**

To give a clear impression of the effects of this system of administration, it would be necessary to draw a map of the Forest at the beginning of the thirteenth century. In the present state of our knowledge this is impossible. But there is no doubt that the Forest comprised a good part of the realm. Foreigners and travellers noted with astonishment its enormous extent. The Italian Polydore Vergil, who crossed the Channel at the beginning of the sixteenth century, asserted that a third of England consisted of parks and forest, and a century later Moryson could still write that there were more deer in England than in all the rest of Europe.[1] The statement of Polydore Vergil is evidently a serious exaggeration, for it refers to a period subsequent to extensive disafforestments. But it might not be far from the truth if applied to the beginning of the thirteenth century. At that time indeed, before the disafforestments carried out by John, Henry III, and the three Edwards, there were only six counties out of thirty-nine which contained no Forest.[2] These consisted of a compact group of counties corresponding to the

**Extent of the Forest**

1. Authorities cited by Greswell, p. 242.
2. Cf. the lists of counties in *Parl. Writs*, ed. Palgrave, i. 90-1, 396-7; and Turner, pp. xcvi n. 1, xcvii n. 3, xcix sqq., ciii n. 5, cvi sqq.

ancient East Anglia and its marches—Norfolk, Suffolk, Cambridgeshire, Bedfordshire, and Hertfordshire.[1] In another quarter there was Kent, to which one might, strictly speaking, add Middlesex.[2] In Kent, Norfolk and Suffolk, more than anywhere else, the rural population maintained its freedom after the Conquest,[3] and these were precisely the districts free from the forest law. On the other hand, thirty-three counties, representing six-sevenths of the area of the realm, contained forests, often of great extent. Essex, which was indeed an exceptional case, was entirely forest in the days of Henry I and Henry II.[4]

**Effects of the forest system: i. economic**

We can imagine the result of the state of things just described. The forests swarmed with game, and even in time of famine it was unlawful to touch it. It had freedom and protection, and might ravage the crops without fear of arrows. The very owners of the soil were forbidden to make clearings, on pain of fines and yearly compositions. A tenant was not allowed to follow his own wishes in the development of his land, even to the extent of making a hedge or ditch. The ancient customary rights which had formerly ensured to the Saxon peasant many advantages and some prosperity, were now pretexts for the infliction of fines; at a time when the cultivation of forage-crops was seldom practised, the law forbade the use of the grass-land and woods for the feeding of cattle; and one might not cut down a tree or a bough on one's own property, except under the surveillance of the all-powerful forester, with his vexatious restrictions and demands. It was within his power to make a family's

1. It is, however, not quite certain that the three last contained no forest. See on this Turner, p. cviii.

2. As we have seen, Middlesex contained a warren, which was under the forest law. It was suppressed in 1227 (Turner, p. cviii). There was no forest properly so called in the county.

3. Vinogradoff, *Villainage in England*, pp. 205 sqq., 218 sqq., 316.

4. J. H. Round, *Forest of Essex*, in the *Journal of the British Archæological Association*, new series, iii, 39.

lot intolerable, and in the event of opposition, to summon its members time after time before the court of attachment and ruin them by countless fines.

ii. political

It was not only in the economic sphere that the forest law made its effects felt. From a legal and political standpoint, the forests were a dangerous anomaly. They were withdrawn from the operation of the common law and of the custom of the realm, and governed by rules laid down in special assizes and ordinances. In them, too, there lived troops of royal officers, who alone were allowed to bear arms and who were pledged by oath to serve the interests of the king. The Forest was the stronghold of arbitrary power.

Such was the character of the Forest at the time of its greatest extent and influence. We thought it best to begin by describing it: we have now to account for its existence, and to trace its history from its rise to its decline. We shall be concerned in particular to show how the Forest, a natural outcome of the Conquest, became perhaps the most oppressive and the most hated of the institutions which the Norman and Angevin kings sought to impose on their subjects, and how it consequently strengthened the hostility of the barons, and furthered the union of the English against the despotic power of the crown.

(2)

## ORIGIN OF THE FOREST. DEVELOPMENT OF THE SYSTEM UNDER THE FIRST THREE NORMAN KINGS.

Like all the rulers of their time, the Anglo-Saxon kings loved the chase and possessed game-preserves. They did not, however, establish a forest jurisdiction, with an administrative organisation, courts, and special laws.[1] It was from the continent that the forest system came, and it was the Norman conquerors who brought it over. It is in Frankish and Norman records that its origin should have been sought by English historians.[2]

**In origin the Forest was not an English institution**

No one can study the Carolingian capitularies which relate to the *Forestis* without being struck by the analogy or rather the clear connection which exists between them and the English Assizes of the Forest. Under Charles the Great and his immediate successors, the Forest was essentially a royal institution. The wood and the game were protected by "forestarii," and "if the king has given to any man one or more beasts in the Forest, he ought not to take more than has been given."[3] This Frankish institution of the *Forestis* did not disappear with the Carolingians. In the tenth and eleventh centuries the dukes and counts among whom Gaul was divided evidently revived it to their own advantage in all districts where there was plenty of wood

**but Frankish**

1. Liebermann, *Ueber Pseudo-Cnuts Constitutiones de Foresta*, pp. 14 sqq. Details in regard to Anglo-Saxon hunting will be found in Greswell, *op. cit.*, pp. 24 sqq.

2. See (in the recently-published *Mélanges* dedicated to M. Charles Bémont) an essay in which we devote special attention to the Franco-Norman Origins of the English Forest. A German scholar, Herr Hermann Thimme, has argued that the Frankish Forest consisted of arable and pastoral lands from which the inhabitants of the "mark" were excluded. (*Forestis, Königsgut, und Königsrecht*, in the *Archiv für Urkundenforschung*, vol. ii, 1909, pp. 101–154). This paradox, we think, has been completely refuted in an essay which we have just written, and which we hope to publish in the *Bibliothèque de l'Ecole des Chartes*.

3. Boretius, *Capitul*, i, 172; see also pp. 86 sqq., 98, 291; vol. ii, 355.

and game. At all events, the dukes of Normandy had a Forest before the conquest of England.

**and Norman**

Norman records of the eleventh century are meagre and scarce. They suffice to prove, however, that in certain woods, and even in woods granted by the duke to his subjects, larger game, such as the red-deer, roe, and wild-boar, was reserved for the duke's hunting, and the trees might be neither felled nor cut.[1] There were pleas of the Forest[2] and a forest law, and in the reign of duke Richard II the peasants rebelled in the hope of securing the free use of the woods and waters, in spite of the *jus ante statutum*.[3]

When sources become more plentiful, at the beginning of the twelfth century, we find the administration of the Norman Forests very similar to the administration of those in England.[4] It is true that, by the time from which our authorities date, Normandy might have taken in her turn certain institutions which had sprung up in England. But in any case the beginnings of the Forest are prior to the union of Normandy and England; the Forest was a Frankish, not an Anglo-Saxon institution; and it was carried across the Channel by William I.

**Brutal character of the Norman conquest**

The forest system, introduced into England by a victorious dynasty which from the first was very powerful, soon made remarkable advances in this country. As we said in our study on the origins of the manor, the Norman Conquest was no passing storm for the

1. Charter of William the Conqueror for St. Etienne of Caen; Delisle, *Cartulaire normand*, no. 326.

2. Duke Robert's charter to Cerisy: Dugdale, *Monasticon*, ed. 1846, vii. 1073.

3. Guill. de Jumièges, V. ii. in Duchesne, *Hist. Normann. Scriptores*, p. 249. See also the *Cartulaire de St. Michel du Tréport*, ed. Laffleur de Karmaingant, no. 10.

4. See the studies by Leopold Delisle, *Des revenus publics en Normandie au xiiᵉ siècle*, Bibl. Ec. Chartes, vol. xi (1849); *Etude sur la condition de la classe agricole en Normandie*, (1851); M. Michel Prevost's monograph, *Etude sur la forêt de Roumare*, *Bull. de la Soc. d'émulation du Commerce et de l'Industrie de la Seine-Infér.*, 1903 (published separately, 1904); and also my study referred to above, p. 166, n. 2.

vanquished. Confiscations were numerous, and the small Saxon freeholder received a mortal blow.[1] This general estimate, which we adopt on the authority of the most learned students of the eleventh century, justifies us in regarding as probable and natural the accounts of chroniclers concerning the establishment of the Forest in England. The event which most impressed contemporaries was the making of the New Forest in Hampshire.[2] As everyone knows, William Rufus was killed by an arrow while hunting. Florence of Worcester, who died in 1118, declares that his fate was a stroke of divine vengeance, punishing the son for a sin committed by the father. For William the Conqueror, he says, to make the New Forest, had ruined a hitherto prosperous country, driven out the inhabitants, and destroyed houses and churches.[3] Later writers have enlarged on the same theme. Quite recently, however, the late Mr. F. H. M. Parker has called this story into question. According to him, William Rufus was the victim of a conspiracy: Henry I's complicity was not beyond doubt: and the story about divine vengeance was invented to remove suspicion.[4] Long ago the worthy David Hoüard, in his commentary on Littleton, affirmed in his academic style that William the Conqueror "did not resort to the excesses which some English historians cast in his teeth," and that it was "the monks" who gave him his bad reputation.[5] No purpose would be served here by a detailed discussion of Parker's article, sound as many of his comments are. It is enough to point out that Florence

**The creation of the New Forest**

**Discussion of Florence of Worcester's account**

1. See above, pp. 21 sqq.
2. See the details given by Freeman, *History of the Norman Conquest*, iv. 611 sqq.
3. Florence of Worcester (ed. Thorpe, Eng. Hist. Soc.), ii. 44-5.
4. *The Forest Laws and the Death of William Rufus* (*Engl. Hist. Rev.*, 1912, pp. 26 sqq.).
5. *Anciennes loix des François conservées dans les coutumes angloises recueillies par Littleton* (ed. 1766), i. 448.

of Worcester wrote too soon after the creation of the New Forest to risk so flagrant a falsehood, and that, even on the theory of a conspiracy, such a lie would have been very clumsy. William Rufus was universally hated, regarded as an enemy to God and man; if, as Parker supposes, there was a political motive for the circulation of a story of divine vengeance, it would have sufficed to recall the crimes and extortions of Rufus himself, and it was as clumsy as dangerous to assert facts which the enemies of the new king could have disproved. Finally, Henry I was himself a great hunter, and if Florence had been trying to please him, he would certainly have taken care not to represent the creation of the New Forest as a crime. His denunciations can therefore only be explained on grounds altogether opposed to those suggested by Mr. Parker. If, while on the subject of the death of Rufus, he brought in the ravages perpetrated by William the Conqueror, it was because contemporaries really remembered them, and connected the misdeeds of the father with the violent death of the son.

There is reason, however, for regarding the statement of Florence as an exaggeration. It has been shown that the district afforested in Hampshire was by no means entirely an inhabited and cultivated country. I am not speaking of the negative argument put forward by archæologists, who have found no traces of pre-Norman villages in this region: archæological arguments are only convincing when positive. But there is the evidence of Domesday Book, which has been examined by Mr. Baring. It shows that William I found in a corner of Hampshire 75,000 acres of almost deserted country, and of this he made a forest. He added, however, fifteen or twenty thousand acres of inhabited land, on which there were a score of villages and a dozen hamlets; and doubtless through fear of poaching, he evicted five hundred families, numbering about two thousand

**Evidence of Domesday Book regarding the New Forest**

persons. Later, the New Forest was further increased by between ten and twenty thousand acres, which were mainly covered with wood and thinly populated.[1]

**Arbitrary policy of the Norman kings**

William the Conqueror and his sons, therefore, made forests at their pleasure, without troubling much about the distress they caused. Of the utterly arbitrary nature of their policy, we may give another illustration, reported at an inquisition in a most naïve and certainly most sincere style. While travelling through Leicestershire, Henry I saw five hinds in Riseborough wood: he decided to afforest the wood, and left one of his servants to guard the game, the office afterwards passing to a Leicestershire man who held land in the neighbourhood. The wood in question was in a populous and cultivated district.[2] The famous articles concerning the forests in the charters of Henry I and Stephen prove clearly that the Forest continued to grow during the reigns of the first three Norman kings.[3]

**Continual growth of the Forest**

Under Henry I, the whole of Essex was subject to the forest law, including the hundred of

1. Baring, *The Making of the New Forest* (*Engl. Hist. Rev.*, 1901, pp. 427 sqq.; 1912, pp. 513 sqq.) [The first article also separately in his *Domesday Tables* (1909), pp. 194—203.]

2. The inquisition was made in the reign of Henry III; the document is curious in more than one respect: "Cum rex Henricus primus . . . iturus fuisset versus partes aquilonares, transivit per quendam boscum, qui vocatur Riseberwe, qui boscus est in comitatu Leycestrie; et ibi vidit quinque bissas; qui statim precepit cuidam servienti suo nomine Pichardus quod in partibus illis moraretur usque ad reditum suum a partibus predictis et dictas bissas interim ad opus suum custodiret. Contigit autem quod infra annum illum dictus rex ibi non rediit; infra quem annum dictus Pichardus associavit se cuidam servienti euisdem patrie, qui vocabatur Hascullus de Athelakeston, ad cuius domum sepius conversabatur. Finito vero anno illo, postquam predictus rex rediit a partibus aquilonaribus, adiit dictus Pichardus regem predictum, dicens se nolle amplius ballivam predictam custodire. Et tunc requisitus ab ipso rege quis esset idoneus ad dictam ballivam custodiendam, respondit dicens quod dictus Hascullus, qui terras ibidem habuit vicinas et manens erat in eadem balliva. Et tunc dictus rex commisit Hascullo predicto dictam ballivam custodiendam scilicet forestariam de comitatu Leycestrie et similiter Rotelandie, qui eam custodivit toto tempore suo" (Turner, p. 45).

3. See the passages quoted in Stubbs, *Const. Hist.*, i. 435, notes 1 and 2.

Tendring, which was afterwards disafforested.[1] Henry I's contemporary, Ordericus Vitalis, asserts that he "claimed for himself the hunting of the beasts of the Forest in all England and hardly granted to a small number of nobles and friends the privilege of coursing in their own woods."[2] This is unquestionably a gross exaggeration.[3] What is proved by this passage is that, as other documents show, Henry extended the bounds of the Forest, and thus restricted the exercise of the right of hunting by reserving it to himself in lands which did not belong to the royal demesne. His object was to secure for himself the possession of huge game-preserves, and at the same time, no doubt, a substantial income of fines for forest offences.[4]

**The forest law under William I and William II**

It is impossible, in the present state of our knowledge, to estimate the territorial extent of the Forest reign by reign. Nor is it much more possible to trace accurately the growth of the forest law and organisation. The records are so scanty, so vague, sometimes so difficult to date, that no indisputable conclusions can be reached. I am inclined to think that, in its essential features, the forest law was already formulated in Normandy before the Conquest and that William I established "the peace of his beasts"[5] on lines which were in general followed

1. On the extent of the Forest in Essex, see Round, *The Forest of Essex*, in the *Journal of the British Archæological Association*, new series, iii. 37 sqq.

2. Ordericus Vitalis, ed. Aug. le Prevost, iv. 238.

3. Cf. the charter granted by Henry I to the citizens of London, *in fine*: "Et cives habeant fugationes ad fugandum, sicut melius et plenius habuerunt antecessores eorum, scilicet Ciltre et Middlesex et Sureie" (*Sel. Charters*, ed. H. W. C. Davis, pp. 129 sqq.).

4. Mr. Round, who emphasises strongly the fiscal character of the enlargement of the Forest, thinks that in the vast preserve constituted by the county of Essex, the kings seldom hunted outside the district of Waltham (*Forest of Essex*, p. 39).

5. This is stated by the Anglo-Saxon Chronicle (ed. Thorpe, i. 355). From William I's letter to the Londoners, forbidding them, unless individually authorised by the archbishop to chase the red-deer, roe, or any other game in Lanfranc's manor of Harrow, it is clear that besides the king, there were already subjects with special hunting rights. See J. H. Round's edition of this charter (*Londoners and the Chase*, in the *Athenæum*, 30 June, 1894, p. 838).

to the death of Henry I. The " baronies of the Forest " which he established for instance in Somerset, were no doubt instituted for purposes of political supervision, but they were also the origin of foresterships-in-fee which are found in existence in the next century.[1]

William Rufus unquestionably had officers who protected the game, made enquiry into encroachments, and imposed fines for trespasses against the venison, even in lands which were not part of the demesne.[2] In this reign the forest administration seemed so intolerable to small landowners and to the Saxon peasants, that William, to win their help against the rebellious Normans, promised, among other delusive concessions, to give up his forests; and with this hope before them, they supported him faithfully.[3]

We have rather more information as to the organisation of the Forest under Henry I. We must not indeed accept without hesitation the authority of the so-called *Leges Henrici Primi.* Dr. Liebermann, who has studied the collections of twelfth-century laws with great learning and insight, sees in them no more than traces of the legislation of Henry I.[4] He admits,[5] however, that, as the compiler states,[6] the Forest was reckoned as an appurtenance of the crown in the time of Henry I, and the seventeenth chapter of the *Leges,* composed of heads of chapters which summarise the powers of the forest courts, he considers to be a fragment of the instructions given by Henry to his justices of the Forest.[7] It appears

**Documents of the reign of Henry I. The " Leges Henrici primi "**

1. A *baronia Foreste,* held of William I *per servicium Foreste,* was the origin of the office of forester-in-fee in Somerset (Greswell, pp. 42 sqq., 85).

2. See the passages cited by Liebermann, *Ueber Pseudo-Cnuts Constitutiones de foresta,* p. 21.

3. See the passages cited in Stubbs, *Const. Hist.,* i. 321-2.

4. Liebermann, *op. cit.* p. 23.

5. *Ibid.*

6. " De iure regis. Hec sunt iura que rex Anglie solus et super omnes homines habet in terra sua . . . Foreste " (*Leges Hen. primi,* cap. x, § 1; in Liebermann, *Gesetze der Angelsachsen,* i. 556).

7. *Pseudo-Cnut,* p. 23.

from this chapter[1] that the holders of lands under the forest law were exposed to countless annoyances: the right of making clearings, of putting up buildings, of cutting wood, of carrying weapons, of keeping dogs, was already denied them or was subject to most irksome restrictions: they had to attend the forest courts when summoned, and to act as beaters when the king went hunting.

**Charters of Henry I**

Authentic documents of the time of Henry I, such as charters and the pipe roll, confirm the impression made by this chapter of the *Leges* and point to its trustworthiness. The charters show that the king had a staff of foresters, called *venatores, servientes, ministri,*[2] who not only had oversight of the royal Forest, but also strove to enlarge it, made themselves troublesome to the neighbouring landowners, and prevented them from hunting on their own estates and clearing their land.[3] The Charter of the Forest of 1217 proves that the "regard" was known in the days of Henry I, since, according to the fifth article, the "regarders" went "through the forests to make the regard at the time of the first coronation of Henry II"; and they had certainly not been instituted during the period of anarchy which followed Henry I's death.[4]

1. It runs as follows: "De Placito Forestarum. Placitum quoque forestarum multiplici satis est incommoditate vallatum: de essartis; de cesione; de combustione; de venacione; de gestacione arcus et iaculorum in foresta; de misera canum expeditacione; si quis ad stabilitam non venit; si quis pecuniam suam reclusam dimisit; de edificiis in foresta; de summonicionibus supersessis; de obviacione alicuius in foresta cum canibus; de corio vel carne inventa" (Liebermann, *Gesetze*, i. 559).

2. See the address of a charter of Henry I granting to the monastery of Abingdon the tithe of the venison taken in Windsor Forest: "Willelmo filio Walteri, et Croco venatori, et Ricardo servienti, et omnibus ministris de foresta Windesores" (*Historia monasterii de Abingdon*, ed. J. Stevenson, ii. 94).

3. "Henricus, rex Anglie, Croco venatori, salutem. Permitte lucrari terram monachorum Abbendone de Civelea et de Ualingeforda, illam scilicet que non noceat foreste mee et quod non sit de foresta mea" (*ibid.*, ii. 83). "Silvas de Bacchleia et Cumenora iste abbas Faritius a regis forestariorum causationibus funditus quietas et in eis capreorum venationem, regio obtinuit decreto" (*ibid.*, ii. 113).

4. See also the passage from the *Chronicon abbatiae Rameseiensis*, quoted below, p. 176, n. 4.

Finally the still extant pipe roll of the thirty-first year of Henry I's reign, claims particular attention.[1]

**The pipe roll**

This valuable document makes occasional mention of fines inflicted at the pleas of the Forest,[2] and for the counties of Essex and Hertford these form the matter of a special chapter entitled *De placitis foreste*.[3] The grounds for the sentence having no interest for the Exchequer, the accounts very seldom offer any valuable details. We find, however, evidence of collective fines paid by townships at the pleas of the Forest.[4] If these are compared with similar fines paid in the thirteenth century, they prove beyond question that, as early as the time of Henry I, when a beast of the Forest was found dead, the nearest township must discover the offender or else pay a fine. Such was evidently the content of the instructions concerning discoveries of the remains of game—under the heading: "De corio vel carne inventa"—in chapter xvii of the *Leges Henrici primi*.[5]

**The forest Assize of Henry I**

Finally these accounts prove beyond dispute that, under Henry I and perhaps before him, the justices of the Forest administered a written law, a forest assize, which contained a special prohibition against keeping greyhounds in the royal Forest.[6]

1. *Magnum rotulum Scaccarii vel magnum rotulum Pipae de anno 31° Henrici primi*, ed. Hunter, 1833.

2. For example, p. 49, under Surrey: "Albericus clericus compotum de xxxvis. viiid. de placitis Rad. Bass. de foresta."

3. Pp. 157-159. The counties of Essex and Hertford had a single sheriff. It is doubtful, as was said above, whether Hertfordshire contained any forest.

4. "Et de xxs de villata de Benflet . . . Et de dimidia marca de villata de Dunton. Et de dimidia marca de villata de Mucking. Et de xxs de villata de Neuport," etc. (*ibid.*, p. 158).

5. See above, p. 173, n. 1.

6. "Gilbertus de Mustiers reddidit compotum de viii *li.* xl *d.* pro leporariis habitis *contra assisam*" (p. 158). On the meaning of the word "Assize," see Stubbs, *Const. Hist.*, i. 614 and note. We do not think that this word can simply mean "custom."

It would not, we think, be impossible to reconstruct this assize with some approach to accuracy. We can form no theory as to its date, and there are no grounds for ascribing it to Henry I rather than to William the Conqueror. But some notion of its contents may be gained by a study of the so-called Assize of Woodstock, which certainly does not belong entirely to the reign of Henry II.

**The Assize of Woodstock contains material of earlier date**

The Assize of Woodstock was several times edited by Stubbs. It is to be found in the *Gesta Henrici Secundi* ascribed to Benedict of Peterborough, and in the chronicle of Roger of Hoveden, while there are also separate copies of it.[1] Stubbs asserts that he failed to find a single satisfactory text, and indeed the wording of it is obscure, badly arranged, and sometimes inconsistent. It looks as if the text had never been officially fixed, and as if different copyists had strung together articles of various periods. The author of the *Gesta Henrici Secundi* gives only the earlier articles (1, 2, 3, 5 and 6). Roger of Hoveden does not quote the four last (13, 14, 15 and 16). In the first article the king announces his resolve to subject poachers to the cruel penalties of mutilation which had been inflicted in the time of his grandfather Henry I, whereas in the last he threatens them with imprisonment and fine only.

The twelfth article moreover begins with the words: *Apud Wodestoke rex precepit* . . . as if the preceding sections belonged to a period before the assembly at Woodstock. Stubbs believed that the version which appears in the *Gesta Henrici Secundi* was an ancient assize: additions would afterwards be made to it, and article 12 would be inserted last, at the time of the council

1. See the texts edited by Stubbs in *Gesta regis Henrici Secundi Benedicti abbatis* (R. S.), i. 323; *ibid.*, ii, Appendix iv, a text collated with two copies of the time of Elizabeth; Roger of Hoveden, *Chronicle* (R. S.), ii. 245 sqq.; *Sel. Charters*, pp. 186 sqq.

**Clauses which date from the reign of Henry I**

at Henry's hunting-lodge of Woodstock. This view appears to me unconvincing. In my opinion, it would be more plausible to regard as ancient clauses, dating at least from the days of Henry I, those to which parallels can be found in the sources referred to above—charters and accounts, survivals of Henry I's legislation, and chronicles of the first Norman reigns. On this hypothesis, the assize mentioned in the pipe roll of Henry I will have contained the prohibition to carry arms and to keep greyhounds in the Forest,[1] the order to mutilate the paws of dogs in all places where the peace of the king's beasts was established,[2] the prohibition against destroying the woods in the Forest,[3] the order for the triennial inspection of assarts, purprestures, and waste,[4] and the command that all the inhabitants of the district shall attend the pleas of the Forest.[5] These early rules are preserved, we think, in articles 2, 14, 3, 5, 10 and 11, of the Assize of Woodstock. Finally article 1 of that assize evidently alludes to the fact that under Henry I poachers were punished by blinding and castration,[6] and the old assize

1. Assize of Woodstock, § 2; cf. the passages from the *Leges Hen. primi* cited above, p. 173, n. 1 (de gestacione arcus et iaculorum in foresta . . . de obviacione alicuius in foresta cum canibus), and the passage from the Pipe Roll, *supra*, p. 174, n. 6.

2. Assize of Woodstock, § 14; cf. *Leges Hen. primi* (de misera canum expeditacione) and Ordericus Vitalis, ed. cit., iv. 238, (in reference to Henry I): "Pedes etiam canum, qui in vicino silvarum morabantur, ex parte precidi fecit." See also art. 6 of the Charter of the Forest of 1217, which mentions the practice as established at the accession of Henry II.

3. Assize of Woodstock, §§ 3 and 5; cf. *Leges Hen. primi* (de cesione, de combustione), and Henry I's writ to the huntsman Croc, *supra*, p. 173, n. 3.

4. Assize of Woodstock, § 10; cf. *Leges Hen. primi* (de essartis; . . . . de edificiis in foresta), and art. 5 of the Charter of the Forest of 1217, which takes us back to the accession of Henry II. William Rufus asserted his right to have the forests of the abbeys inspected by his foresters "de bestiis et de essartis" (*Chron. abbatiae Rameseiensis*, ed. Macray, p. 210). Henry I exempted an estate of the abbey of Ramsey, "de visionibus forestarum et essartis" (*ibid.*, p. 214).

5. Assize of Woodstock, § 11; cf. *Leges Hen. primi* . . . "de summonicionibus supersessis."

6. The text of the Assize of Woodstock in the *Gesta Henrici Secundi* (i. 323) is the only one which specifies "ut amittat oculos et testiculos." In his *Select Charters*, Stubbs gives the milder version of other copyists.

perhaps enjoined this penalty. In any case it must have resembled the assizes of Henry II and Richard I in entirely forbidding any interference with the king's beasts.[1]

It is clear that Henry I was faithful to the declaration of his coronation Charter: he "retained the Forest in his hand." He moreover enlarged it and probably increased rather than lightened the severity of the forest law.

**Comparison with France**

The exercise of the right of the chase, at the time when Henry I ruled in England and Louis VI was king of France, may be cited as a typical example of the power of the Norman kings and the weakness of the Capetians. In France the right belonged in theory to all the *hauts justiciers* and to those on whom they had conferred it; but in practice it had often been acquired by force and in that case had no other foundation than immemorial possession, or "seisin." It was distributed in an extremely complicated and perplexing way, and was the object of numerous claims and negotiations. The king had forests and warrens, with an administrative system and foresters; but with respect to the chase, his prerogative cannot be clearly differentiated from the rights of particular nobles, bishops, or even, in some cases, urban or rural communities. He might possess hunting rights on land outside his demesne, but within the demesne there were chases which did not belong to him. He had the privilege of hunting in many forests which belonged to the Church, but there were others of these where the hunting was in the hands of a lay lord. It was only after the beginning

1. I do not venture to suggest a date for the remarkable thirteenth article, which lays down that every man dwelling "infra pacem venationis" shall at the age of twelve swear to the peace of the venison. The end of the clause (et clerici laicum feodum tenentes) is apparently a later addition, which may be attributed to Henry II. There is here an evident echo of Anglo-Saxon custom: according to the laws of Cnut, every man of the age of twelve must swear not to be a thief (Liebermann, *Gesetze*, i. 324-5).

of the reign of St. Louis that the king claimed superior rights in respect of warren.[1]

With the death of Henry I and the accession of Stephen, a chapter in the history of the Forest comes to an end. Up to this time, its bounds were continually advancing, and its law was becoming, as it seems, more and more oppressive. From now to the end of the Middle Ages, periods of decline and progress succeed one another, according as the power of the crown wanes or waxes. The "disafforestments" soon begin, interrupted by new afforestations. The forest law, systematised by the lawyers, but feebly defended by them—doubtless because it was scarcely defensible—soon undergoes violent attacks at the hands of the nobles, and from the reign of John gradually decays. Its history is now bound up with the history of the Constitution, until, having become harmless, it ceases to be the theme of complaints and falls into obscurity.

1. It is impossible to cite here the very numerous documents on which the last paragraph is based. They are drawn from royal records and those of the *Parlement* of Paris, from the *Enquêtes* of St. Louis, from Cartularies, and so forth. They will be cited in an essay on *The Forest and the Right of the Chase in France*, which we hope to publish in 1915.

(3)

## THE FOREST UNDER THE ANGEVINS.

In the charter which he granted in March or April 1136, Stephen pledged himself to restore "to the churches and to the realm" the forests which Henry I had added to those of William I and William II.[1] It has been proved that he partially redeemed his promise, though he exacted payment for the disafforestments.[2] Soon, however, there was no need to buy his consent: the civil war reduced him to impotence; and everyone was free to chase the king's deer and make encroachments on his Forest.[3]

**Disafforestment under Stephen**

After these years of anarchy came a reign marked by the increase of royal power and the making of new laws. A great hunter, Henry II was at the same time an administrator, a jurist, and a vigorous and strong-willed ruler. In the charter which he issued after his coronation, he confirmed the liberties and grants bestowed by his grandfather, Henry I, but said nothing about those conceded by Stephen. His silence has been explained on the ground that he regarded as excessive the advantages conferred on the Church.[4] But without doubt he had equally strong objections to the disafforestments promised in Stephen's charter. Indeed he resumed the lands which, whether by virtue of the charter of 1136 or in the confusion of the civil war, had been disafforested in the reign of his feeble

**Henry II restores the forest jurisdiction**

1. Stubbs, *Const. Hist.*, i. 348; [*Sel. Charters*, pp. 143 sqq.]
2. Round, *Forest of Essex*, pp. 37–8. Stubbs' statement (*Const. Hist.*, i. 348) that Stephen "kept none of these promises," is therefore too strong. See also *op. cit.*, p. 349.
3. See the instances mentioned by Round, *Geoffrey de Mandeville*, p. 376, *Forest of Essex*, p. 39.
4. Bémont, *Chartes des libertés anglaises*, Introd. xv. n. 1.

predecessor; and he also made some entirely new additions to the Forest, which under his rule became larger than ever.[1] The pipe rolls prove that he derived large sums from it through judicial fines and rents exacted as compensation for encroachments.[2]

**Theories of the lawyers**

The royal officials set themselves to formulate a legal theory of the Forest. In the *Dialogus de Scaccario*, as we have seen, Richard Fitz-Neal, the treasurer, examined the forest organisation, though without trying to justify it on other grounds than the good pleasure of the king. The *Constitutiones de Foresta* attributed to Cnut are an apocryphal work of slightly different tendency, written probably at the end of Henry II's reign by one of his foresters.[3] The Forest, it seems, roused interest enough in the jurists for one of them to devote himself to forging a document in its honour.

**Henry II's Assize**

In these conditions it was natural that a law-giving king should publish an Assize of the Forest. This he did at Woodstock in the latter part of his reign. In a sixteenth-century copy the document is entitled: "Assize of the lord King Henry touching his Forest and his venison, by the counsel and consent of the archbishops, bishops and barons, earls, and nobles, at Woodstock."[4] We have

1. Charter of the Forest of 1217, § 1: "Omnes foreste quas Henricus rex avus noster afforestavit." See below (p. 215, n. 4) the passage from the royal letters of 1227: "... tam bosci quos ipse ad forestam revocavit quam illi quos de novo afforestavit." It is scarcely necessary to say that in the reign of Henry II, as evidently at other times, the foresters played a great part in determining the territorial extent of the Forest, and that its continued growth was due in great measure to their initiative. Cf. the letters of Henry III published by Turner, p. xcvi: "... et que foreste afforestate fuerunt per Henricum regem avum nostrum tempore Alani de Neville vel tempore aliorum forestariorum suorum, de voluntate ipsius regis vel de voluntate aliorum forestariorum suorum."

2. Under the head of assarts, Essex in one year brought in 215 *l.* 18 *s.* (Round, *Forest of Essex*, p. 39).

3. Liebermann, *Pseudo-Cnut*, pp. 32, 35, 37.

4. The title is given (of course in Latin) in *MS. Cotton Vespasian*, F. iv (Roger of Hoveden, ed. Stubbs, ii. 245, n. 2).

tried to prove that part of this assize must have been derived from a more ancient assize mentioned in the pipe roll of the thirty-first year of Henry I. But most of the articles certainly bear the mark of the administration of Henry II. Such are articles 4, 6, 7, 8, on the oversight of the Forests and the pledges demanded from the foresters, those included who were appointed by individuals to guard private woods within the forest boundaries. Henry II's foresters were zealous and greatly feared. Even villeins were at times appointed to the position.[1] Henry took care to protect his forest officials, and in 1175 four knights were hanged for killing one of them.[2] At the same time he would tolerate no corrupt dealings, as is shown by the famous instructions which have been published under the title of the Inquest of Sheriffs.[3] The first and the last articles of the Assize of Woodstock probably belong also to the reign of Henry II, despite the fact that they contradict each other as to the punishment to be inflicted on poachers—a point to which we shall return later. Article 12, which inflicts imprisonment on a delinquent after his third offence, begins with words—" at Woodstock the king ordained " —which leave no doubt as to its origin. Finally, it was certainly Henry II who drew up article 9, one of the most characteristic and important of the assize—the article concerning clerical offenders.

**Check on the foresters**

**Penalties**

1. " Ex servis forestarios super provincias constituit " (Ralph Niger, quoted by Liebermann, *Pseudo-Cnut*, p. 28).

2. *Gesta Henrici II*, i. 93-4.

3. *Inquest of Sheriffs*, art. 8, in *Sel. Charters*, p. 177: "Et inquiratur quid vel quantum acceperint forestarii vel baillivi vel ministri eorum, post terminum praedictum, in baillivis suis, quocunque modo illud ceperint vel quacunque occasione; et si quid perdonaverint de rectis regis pro praemio vel promissione vel pro amicitia aliqua . . . et si forestarii vel baillivi eorum aliquem ceperint vel attachiaverint per vadium et plegium, vel retaverint, et postea sine judicio per se relaxaverint . . ." On this Inquest, ordered by Henry II in 1170, after an absence of four years from England, see Stubbs, *Const. Hist.*, i. 510 sqq., and *Sel. Charters*, pp. 174 sqq.

The king, this article states, "forbids any clerk to trespass against his venison or his forests; he has strictly ordered his foresters, if they find clerks trespassing, to seize them without hesitation, keep them in custody and attach them; and he himself will be their warranty." Thus the clergy, though withdrawn from the jurisdiction of the common law, came under that of the Forest. Some years before, in 1175, Henry II had commanded that all persons should be sought out who, taking advantage of the rising of his sons, had chased the king's venison. Many clerks were accused and brought before the temporal courts; the papal legate, Hugo Pierleoni, raised no protest: it was understood between him and the king that the clergy, though in general exempt from secular justice, should lose their privilege in the case of forest offences.[1] Such was the origin of the ninth article of the Assize of Woodstock. From the point of view of Henry's interests, this clause was certainly unwise. The Church was the mistress of public opinion, and it was a mistake to arouse her enmity. The clergy never forgave the legate for his compliance,[2] and the forest system became a theme for clerical invective. So at least we may infer from a story told by Walter Map, one of Henry's itinerant justices. The bishop of Lincoln, St. Hugh, who had so great a moral influence at this time, said one day to Henry II that poor men oppressed by the foresters would enter paradise, but that the king and the

**Clerical offenders**

**Hostility of the Church towards the foresters**

1. Ralph de Diceto, *Ymagines historiarum*, ed. Stubbs (R. S.), i. 402-3. See the passage from Henry II's letter to the pope quoted in Stubbs, *Const. Hist.*, i. 436, n. 4. On the severity with which the offences of 1175 were punished, cf. *ibid.*, p. 521.

2. *Gesta Hen. II*, i. 105: "Praedictus cardinalis, qui in Angliam per mandatum regis venerat, concessit et dedit domino regi licentiam implacitandi clericos regni sui de forestis suis et de captione venationum. Ecce membrum Sathane! Ecce ipsius Sathanae conductus satelles! qui tam subito factus de pastore raptor, videns lupum venientem, fugit et dimisit oves sibi a summo pontifice commissas."

*forestarii* would remain *foris*, outside.[1] No doubt the pun had a great vogue, and reappeared in many sermons where the foresters were abused. The author of the *Magna vita sancti Hugonis* declares that in his zeal against the foresters, enemies of the liberties of the Church, St. Hugh went so far as to excommunicate Geoffrey, the *summus forestarius*.[2] If Henry II had winked at some of the deer-stealing and encroachments of the monks, he would perhaps have secured a little more peace for his successors.[3]

Richard I—or rather those who governed England for

1. " [The beginning is wanting] . . . verumtamen venatores hominum, quibus judicium est datum de vita vel de morte ferarum, mortiferi, comparatione quorum Minos est misericors, Rhadamanthus rationem amans, Aeacus aequanimis, nihil in his laetum nec letiferum. Hos Hugo, prior Selewude, iam electus Lincolniae, reperit repulsos ab ostio thalami regis quos ut obiurgare vidit insolenter et indigne ferre, miratus ait: 'Qui vos?' Responderunt: 'Forestarii sumus.' Ait illis 'Forestarii foris stent.' Quod rex interius audiens risit, et exivit obviam ei. Cui prior: 'Vos tangit haec parabola, quia, pauperibus quos hii torquent paradisum ingressis, cum forestariis foris stabitis.' Rex autem hoc verbum serium habuit pro ridiculo, et ut Salomon excelsa non abstulit, forestarios non delevit, sed adhuc nunc post mortem suam sitant coram leviatan carnes hominum et sanguinem bibunt; excelsa struunt, quae nisi Dominus in manu forti non destruxerit, non auferuntur hii. Dominum sibi praesentem timent et placant, dominum quem non vident offendere non metuentes. Non dico quin multi viri timorati, boni et iusti, nobiscum involvantur in curia, nec quia aliqui sint in hac valle miseriae iudices misericordiae, sed secundum maiorem et insaniorem loquor aciem." (Map, *De nugis curialium*, ed. Wright, pp. 7-8.) The author of the *Magna Vita Sancti Hugonis* reports the saint's pun, but without mentioning the king: " Recte homines isti et satis proprie nuncupantur forestarii, foris namque stabunt a regno Dei " (ed. Dimock, p. 176).

2. " Est . . . inter alias abusionum pestes, prima in regno Anglorum tyrannidis forestariorum pestis videlicet provinciales depopulans. Huic violentia pro lege est, rapina in laude, aequitas execrabilis, innocentia reatus. Huius immanitatem mali nulla conditio, gradus nullus, nec quisquam, ut totum breviter exprimamus, rege inferior, evasit indemnis, quem illius iniuriosa iurisdictio non saepe tentasset elidere. Hac cum pernicie primus Hugoni congressus fuit . . . Cum enim, more solito, ut in caeteros, ita et in suos homines, contra ecclesiae suae libertatem, forestarii debacchari coepissent, eo usque res tandem processit, ut summum regis forestarium, nomine Galfridum, excommunicationis vinculo innodaret. Quo rex comperto vehementem exarsit in iram " (*Magna vita S. Hugonis*, ed. cit., pp. 125-6).

3. On the procedure followed in the case of clerical offenders during the thirteenth century, and the complaints put forward by the clergy in 1257, see Turner, pp. lxxxvii sqq.

him during his long absences[1]—and his successor John maintained the severities of the forest law, and by extending the bounds of the forests made it yet more burdensome.[2] When the barons rose against John and had him at their mercy, they contemplated demanding the immediate reform of the Forest. We have already reprinted and discussed certain notes of an agent of Philip Augustus, which, under the title of "concessions of King John," throw much light on the negotiations between the king and the barons, and on the first demands presented by the latter. Out of a dozen articles, three are concerned with the Forest: and the impression of Philip's agent was that the barons demanded the surrender of all the forests created by John, Richard I, and Henry II; liberty for individuals to take wood for their own use in the parts of the Forest which they held; a rule as to the powers of the foresters in these same private woods; and the abolition of punishment by death or mutilation for trespasses to the venison.[3] The barons, however, let slip this opportunity of ending the tyranny of the forest system.

**The Forest under Richard I and John**

**Original demands of the barons**

As a matter of fact, they inserted in their petition and in the Great Charter only two clauses specifically affect-

1. On the Forest under Richard I, see Hoveden, iv. 63. At the pleas of the Forest in 1198, the justices read certain "praecepta regis" which repeated (see the text in Hoveden, pp. 63 sqq.) Henry II's Assize, and added several articles to it (arts. xiii, xiv, xvi). Trespasses to the venison, according to the Assize of 1198, were punished by blinding and castration (art. xiv.) A charter of Richard in favour of Ramsey abbey (*Cartularium monasterii de Rameseia*, ii. 296, no. 422) shows that the Church obtained some relaxation of the forest law only as an exceptional privilege.

2. The Great Charter alludes to afforestations made by John and Richard (arts. 47 and 53). In the "perambulationes" published by Mr. Turner (pp. 116 sqq.) and by Mr. Greswell (*Forests of Somerset*, pp. 272 sqq.) there are instances of afforestations made by John. On the other hand, as we shall see later (pp. 212 sqq.), there were disafforestments carried out by Richard and John, or at least promised by them, in return for money.

3. See above, pp. 124 sqq.

**Clauses in the Great Charter**

ing the Forest: the king promised to abandon the forests made by himself,[1] without formally pledging himself to abandon those made by Richard and Henry II;[2] and, secondly, the arbitrary summons to the pleas of the Forest of those who dwelt outside its limits, was to be forbidden.[3] In addition the barons adopted a plan which threatened the whole system. They wanted to do away with the abuses which made the Forest intolerable, and which varied to a small extent in different parts; and fearing lest some might be overlooked and spared, they demanded the appointment of elected juries to hold inquisitions in every county regarding "all the evil customs touching forests, warrens, foresters, and warreners";[4] the twelve sworn knights were even charged with the complete and irrevocable suppression of these evil customs within the fifteen days following the inquisition. The king had to accept this Draconian clause, and only obtained, at the last moment, the concession that he should receive notice before the abolition of any evil custom was announced.[5] As early as 19 June, the real date of the conclusion of peace between John and the barons,[6] he called upon the sheriffs to cause these juries to be elected in every county;[7] and another writ of 27 June shows that the knights were at once chosen, and that they were considered as local representatives of the committee of twenty-five barons.[8]

**Enquiry into the forests and warrens**

1. Articles of the Barons, § 47; Magna Carta, § 47: "Omnes foreste que afforestate sunt tempore nostro statim deafforestentur."
2. He promised that complaints on this point should be impartially considered after his return from crusade (Magna Carta, § 53).
3. Articles of the Barons, § 39; Magna Carta, § 44.
4. They added "and rivers." See also § 47 of the Articles and of Magna Carta as to the disafforestment of rivers preserved by John. But the question of fishing played only a minor part, and was put on one side in the Charter of the Forest.
5. Articles of the Barons, § 39; Magna Carta, § 48.
6. MacKechnie, *Magna Carta*, p. 47.
7. *Sel. Charters*, p. 303; MacKechnie, *op. cit.*, pp. 576-7.
8. MacKechnie, p. 577; the French text is in Bémont, *Chartes*, p. xxiv n.

There can be no doubt that the barons were aiming at little or nothing less than the suppression of the Forest jurisdiction. The king and his advisers were themselves so sure of it that they asked the clergy to step in to give article 48 the interpretation least injurious to the crown. Though assuredly the defence of the forest law was little to their interest, eight bishops agreed to sign a declaration which is preserved in the close rolls: they testify that this article was understood by the two parties in such a sense that all customs essential to the existence of the Forest ought to be maintained.[1]

**Attempted abolition of the Forest**

This conciliatory interpretation would certainly not have convinced the barons and the knights on the juries. It was the civil war and John's death that saved the Forest. In the confirmation of the Great Charter issued after the accession of Henry III (on 12 Nov. 1216), the immediate disafforestment of the forests made by John was promised: but the articles of Magna Carta concerning "forests and foresters, warrens and warreners" were placed among the "difficult and doubtful" clauses which demanded consideration.[2] Nothing more was heard of committing the reform of abuses to those who suffered from them and who would doubtless have left in existence next to nothing of an institution they detested.

**The Forest saved by the civil war**

1. ". . . Articulus iste ita intellectus fuit ex utraque parte, quum de eo tractabitur, et expressus, quod omnes consuetudines ille remanere debent, sine quibus foreste servari non possint: et hoc presentibus litteris protestamur." The signatures include the names of the bishops of Winchester, Worcester, and Bath, who to the end remained faithful to John, and of the archbishops of Canterbury and Dublin, and the bishops of London, Lincoln, and Coventry. (Rymer, ed. 1816, vol. i, pt. i, 134).

2. Charter of 1216, § 42, in *Sel. Charters*, p. 339.

(4)

## THE CHARTER OF THE FOREST OF 1217.

The wise men who governed in behalf of the infant Henry III made what concessions were inevitable, and as early as 6 November, 1217, published the Charter of the Forest.[1] An examination of this document is particularly instructive.

**The Charter of the Forest: 6 Nov., 1217**

The personal privileges of the king were curtailed by articles 11 and 13. In the twelfth century, hunting was a pleasure which certain kings were loth to allow their barons to enjoy. Henry I was accused of wishing to restrict it almost entirely to himself. On the other hand, John, notwithstanding certain vagaries[2] which can be sufficiently explained by his capricious and despotic character, made considerable use of the Forest to reward services or gain partisans.[3] He went so far as to permit his barons to hunt in the forest country administered by Brian de l'Isle, when they were passing through it, adding: "We possess our forests and our venison not for ourself only, but also for our subjects." He merely ordered Brian de l'Isle to ascertain who made use of the privilege and what was taken.[4] It may be said that

**Royal rights curtailed. i. Licence to hunt in the Forest**

1. Bémont, *Chartes*, pp. 64 sqq.; Stubbs, *Sel. Charters*, pp. 344 sqq. For a refutation of Roger of Wendover's statement that the first Charter of the Forest was published by John, see Richard Thomson's *Historical Essay on the Magna Charta* (1829), pp. 237-8.

2. As when in 1209, for example, he forbade "the taking of birds throughout all England." Cf. on this passage from Roger of Wendover, Turner, p. ciii, and Greswell, p. 70.

3. For examples of these grants to individuals, see Fisher, *Forest of Essex*, pp. 199 sqq.

4. *Rotuli Lit. Claus.* (ed. Hardy), i. 85.

the principle laid down in this letter was confirmed in the eleventh article of the Charter of the Forest: every archbishop, bishop, earl, or baron passing through the Forest, might take one or two head of venison under the oversight of the forester.

**ii. Eyries and honey**

Another privilege of the king was that of reserving for himself, throughout the realm, the eyries of the fowl of the Forest—hawks, falcons, eagles, and herons—and the wild honey found in the woods. The Norman kings had in this case apparently brought over and converted into a royal prerogative a right which in France every lord seems to have enjoyed on his estates.[1] By article 13 of the Charter of the Forest, Henry III renounced these claims: every free man might have the eyries and the honey found in his woods. The high prices which were paid for the birds used in hawking, and the extensive use made of honey and wax, gave much importance to this concession.

**Measures against poachers maintained**

In the letter to Brian de l'Isle, mentioned above, John stated that the beasts of the Forest had more to fear from thieves than from the barons. All manner of precautions were taken against poaching by the inhabitants of the Forest or by dogs. In the pleas of 1209 which have been printed by Mr. Turner, we read of poachers chased by the foresters, of inhabitants of the Forest prosecuted for possessing arms without permission or for having eaten of the venison, and also of dogs which have been caught hunting on their own account and which are to be produced before the justices.[2] As on the continent, the

1. *Capitul. de Villis*, § 36 (Boretius, i. 86); *Summa de legibus Normanniae* (13th century) in J. Tardif, *Coutumiers de Normandie*, ii. 12 sqq.; and an ordinance of Charles VI: ". . . Retinemus nobis . . . omnes nidos avium nobilium" (*Ordonnances*, viii. 162). If a swarm of bees was found, it became the property of the lord who had the exercise of *haut justice* (see De Maulde, *Condition Forestière de l'Orléanais*, p. 227; also a document of 1259 in *Layettes du Trésor des Chartes*, iii. no. 4474.

2. Turner, pp. 2 sqq.

forest law compelled the inhabitants of the Forest to mutilate the fore-paws of their dogs.[1] The foresters profited by this rule to levy arbitrary fines, and would confiscate a peasant's ox if his dog could still trot, however haltingly. In the Charter of the Forest, the only alleviation granted was that the "lawing" of dogs should be confined to the districts where it was customary at the accession of Henry II; that it should be performed according to a fixed rule, and inspected by a jury at the time of the regards; and finally that no more than a three-shilling fine should be imposed on offenders. The law against carrying or possessing weapons remained in force for the inhabitants of the Forest.

**Regulation of the lawing of dogs**

Mention has been made of the annoyances inflicted on the pretext of protecting the trees and pastures. Articles 9 and 12 of the Charter, which were certainly regarded as among the most valuable, restored to dwellers in the Forest some of the rights of which they had been deprived. They might make mills, fish-ponds, pools, marl-pits, or ditches, clear their lands outside the covert (art. 12), and use at pleasure their own woods for feeding pigs (art. 9). Finally they were relieved of their annual payments to the Treasury for such purprestures, wastes, or assarts as had been made from the accession of Henry II to the second year of Henry III. But the law against touching the trees

**Change in the law on purpresture**

**Amnesty for trespassers to the vert**

1. On the "expeditatio canum," see Fisher, *Forest of Essex*, pp. 226 sqq. Du Cange, s.v. *expeditare*, cites only English authorities for this practice. But the custom of mutilating dogs, or at all events of hobbling them, on land preserved for hunting, was known on the continent. Cf. a charter of Aymeri, vicomte de Thouars, of the year 1229: "Canes vero rusticorum manencium infra metas garene nostre, de duabus magistris unciis unius pedis anterioris mutilabuntur" (*Cartulaires du Bas-Poitou*, published by Marchegay, p. 39). See also the custom of Hesdin in Richebourg, *Nouveau Coutumier Général*, vol. i, pt. i, 337; Sander Pierron, *Hist. de la Forêt de Soigne*, p. 253, etc. For Belgium, see on this subject, a work of A. Faider, which, however, is not on the whole to be recommended: *Hist. du droit de chasse et de la législation sur la chasse en Belgique, France, Angleterre, Allemagne, Italie, et Hollande*, pp. 32, 39, 71, 161.

was maintained, and new offences of waste or assart were to be punished by the usual amercements.[1]

There had been bitter complaints of the irregularity, the arbitrariness, and the abuses of forest justice. By article 16, custodians of castles and other local officers, who had their friends and enemies, were forbidden to hold the pleas of the Forest. The pleas of the vert and the venison, enrolled and attested by the seals of the verderers, were to be presented to the *capitalis forestarius* on eyre, and tried before him alone. The assizes of the twelfth century,[2] moreover, had insisted on the presence at the forest pleas of all the inhabitants of the county. Although this demand was liable to interpretations which diminished its rigour,[3] it clearly gave occasion for the levy of lucrative fines from various defaulters; and this was one of the abuses of which the suppression was demanded by the barons in their petition of 1215. They asked that the summons of the justices should not include inhabitants of the county dwelling outside the Forest, except those who were under accusation or had stood surety for offenders. This thirty-ninth article of the Petition was copied almost word for word in the Charter of the Forest (art. 2). In the same way, the meetings of the swanimote for the regulation of the pasture served as a pretext for fining the absent: but the presence of the

**Safeguards against abuses**

**Attendance at the forest courts**

1. "Qui de cetero vastum, purpresturam vel assartum sine licentia nostra in illis fecerint, de vastis et assartis respondeant" (art. 4). The words "de purpresturis" are omitted; but there is no doubt that this is merely due to careless drafting. Article 12 did away in great measure with the crime of purpresture, but it did not authorise the making of new enclosures without permission; in the thirteenth century the justices had the fences of such pulled down and amerced the offender; see the examples in Turner, p. lxxxii.

2. Assize of Woodstock, § 11 (*Sel. Charters*, p. 188). Assize of Richard I, § 12 (Hoveden, iv. 64).

3. This is proved by the following verdict returned in 1209 at the pleas of Rutland and Leicestershire: "Veredictum militum comitatus Rotelandie quod ad summonicionem iusticiariorum de foresta venire debent ad placita foreste omnes de comitatu Leicestrie comuniter qui manent extra forestam ad distanciam duarum leucarum" (Turner, p. 6).

general public was not necessary, and the Charter lays down that they shall not be forced to attend (art. 8).

Among the most famous articles are 10 and 15, dealing with punishments and outlaws: "No one shall henceforth lose life or members for the sake of our venison; but if anyone has been arrested and convicted of the taking of venison, he shall pay a heavy ransom if he has wherewith to redeem himself; and if he has not wherewith to redeem himself, he shall lie in our prison for a year and a day; and if after a year and a day he can find pledges, he shall go out of prison; but if not, he shall abjure the realm of England." "All who have been outlawed for the sake of the Forest only, from the time of king Henry our grandfather to our first coronation, shall come into our peace without hindrance, and shall find safe pledges that they will not henceforth offend against us touching our Forest." In future, then, banishment was the worst that could befall the poacher who had killed the king's deer; and an amnesty threw the realm open to those who had previously been exiled for this offence.

**Abandonment of the penalties of death and mutilation**

It is possible to determine with more or less exactness the nature of the penalties actually inflicted in the twelfth century, and consequently the value of article 10 of the Charter. As for the barons, they had the privilege, in the twelfth as in the thirteenth century, of being tried only in the king's court: a heavy fine at the king's mercy was their worst possible fate if they hunted his deer.[1] It remains to enquire whether death, mutilation, or banishment awaited offenders who were not barons.

**Previous practice**

**The barons**

The chroniclers under the first Norman kings accuse William the Conqueror and Henry I of having punished

1. See the case of Robert Corbet in 1209 (*Select Pleas*, p. 8). See also *Gesta Hen. II*, i. 94. The author of the *Constitutiones Cnuti de foresta* states the principle which was applied in the twelfth and thirteenth centuries: "Episcopi, abbates, et barones mei . . . si regales [feras occiderint], restabunt rei regi pro libito suo, sine certa emendatione" (ed. Liebermann, § 26). Cf. *Capitul.* 802, § 39 (Boretius, i. 98).

**Cruel punishments under the Norman kings**

poachers by mutilation, and William Rufus of having put them to death.[1] Henry II and Richard I assert in their assizes that Henry I. punished trespasses to the venison with blinding and castration.[2] These were the penalties used in the Carolingian Empire to punish crimes against the sovereign,[3] and the ferocity of penal law in the Middle Ages compels us to accept the statement of the assizes as most probably true. But on the accession of the Plantagenets, these severities were modified, and the object of the authorities was apparently to extract the largest possible fines from the delinquents. William of Newburgh says in fact that Henry II showed himself less cruel than his ancestors.[4]

**Greater leniency under Henry II**

In the Assize of Woodstock, the king asserts that he has hitherto been content with punishing the guilty through their goods.[5] It is true that he declares his resolve to apply henceforth the penalties in vogue under Henry I, but this was unquestionably a mere threat, intended to frighten the king's faithful subjects, to whom his officers had publicly to read the assize.[6] There is in any case a discrepancy between this declaration and articles 12 and 16. Article 12 lays down that for forest offences—

1. See the passages collected by Liebermann, *Pseudo-Cnut*, pp. 20-1; Freeman, *Norman Conquest*, iv. 610, v. 124-5.

2. Assize of Woodstock (text in the *Gesta Hen. II*), § 1; Assize of Richard I, § 1 (Hoveden, iv. 63).

3. Brunner, *Deutsche Rechtsgeschichte*, ii. 64, 78; cf. art. 10 of the so-called Statutes of William the Conqueror, compiled under Henry I, (Textus Roffensis): "Interdico etiam ne quis occidatur aut suspendatur pro aliqua culpa, sed eruantur oculi et testiculi abscidantur" (*Sel. Charters*, p. 99). The Anglo-Saxon Chronicle, in speaking of the laws of William I for the preservation of game, mentions only blinding (i. 355).

4. "Venationis delicias, aeque ut avus, plus justo diligens, in puniendis tamen positarum pro feris legum transgressoribus avo mitior fuit: ille enim . . . homicidarum et fericidarum in publicis animadversionibus nullam vel parvam esse distantiam voluit; hic autem huiusmodi transgressores carcerali custodia sive exsilio ad tempus coercuit" (*Historia rerum anglicarum*, lib. iii. cap. 26, in Howlett, *Chronicles of the reigns of Stephen*, etc. [R. S.], i. 280).

5. "Propter eorum catalla" (§ 1).

6. On this reading of the assize, see Hoveden, iv. 63.

trespasses to the venison included—sureties shall in the first instance be demanded, and that the delinquent shall not be imprisoned until the third offence. The sixteenth article concerns the crime, always regarded as particularly serious, of poaching by night: "no one shall hunt to take beasts by night, within the Forest or without,[1] in any place which the king's beasts frequent or where they have their peace, on pain of imprisonment for a year and of making fine at the king's pleasure." In the Assize of Richard I, which was drafted in more precise language, this last clause disappears, and offenders are simply threatened with the loss of eyes and castration.[2] But it is unlikely that this penalty was often inflicted: Roger of Wendover affirms that Richard I contented himself with the imprisonment or banishment of those who stole his deer.[3]

**Richard I's Assize**

The jurists and judges of this period seem on the whole to have been mercifully inclined. To the author of the *Constitutiones* the death penalty is limited to serfs and inflicted on them only if the beast has been killed.[4] The pleas of 1209, which are particularly interesting, contain no mention of the penalties of death and mutilation.

**Abandonment of corporal penalties in practice**

On the other hand these records show that people were imprisoned, not only on clear proof of an offence, but on suspicions that were sometimes extremely vague. Now prison discipline was commonly very severe during the Middle Ages.[5] A cer-

**Severity of prison-life**

1. We shall try later to explain the words "extra forestam" (pp. 233 sqq.).
2. Assize of 1198, § 14, in Hoveden, iv. 65. Nevertheless, art. 17 of this assize quotes, without revoking it, art. 12 of the Assize of Woodstock: ". . . Idem rex Henricus statuit apud Wudestoke, quod quicunque forisfecerit ei de foresta sua semel de venatione sua, de seipso salvi plegii capiantur," etc.
3. Wendover, in Matthew Paris (ed. Luard, R. S.), iii. 213.
4. *Constitutiones de foresta*, ed. Liebermann, arts. 24-5.
5. Particularly in England; cf. Jusserand, *English Wayfaring Life in the Middle Ages* (trans. by Miss Toulmin Smith), p. 266; Ch. Gross, *Coroners' Rolls (Selden Society)*, p. xxiv. n. 1.

tain Ralph Red of Siberton, imprisoned for having feasted on a doe, died in his cell. Roger Tocke, his friend, had been put in gaol also, although he was probably innocent: "he lay," we read, "a long time in prison, so that he is nearly dead." Such a prospect frightened the guilty, and numbers fled and were outlawed. One of these was Hugh the Scot: venison was found in his house; he took sanctuary, kept to the church for a month, and escaped in women's clothes; he was pronounced *utlagatus*[1] As early as 1166 the Assize of Clarendon prescribed what measures should be adopted against those accused of forest offences who fled from one county to another.[2]

Imprisonment therefore awaited both those accused and those merely suspected.[3] It awaited also the penniless and friendless who failed to find sureties, and in some cases threatened even those who did. It would be unsound to urge that imprisonment was not, technically, a penalty; for, as we have seen, article 16 of the Assize of Woodstock punished nocturnal poaching with the *poena imprisonamenti unius anni.*

**Cases in which imprisonment was imposed**

To sum up, during the reigns of the first three Plantagenets, poachers had to fear sometimes exile, but more often ruinous fines or very severe imprisonment; and the gaol was an object of such horror that often it seemed a greater evil than flight and the wretched lot of an outlaw. On the other hand, forest justice, organised with the main object of making money, was so regulated that it was impossible for the death penalty to be inflicted. This is sufficiently proved by the length of the procedure in capital cases and the long intervals between the eyres

**Conclusion as to punishments before 1217**

1. Turner, pp. 1—3, 6, 9.
2. Art. 17 (*Sel. Charters*, p. 172).
3. According to article 12 of the Assize of Woodstock, delinquents could not be imprisoned till their third offence. It is probable that this article fell into disuse as far as trespasses to the venison were concerned. It is significant that it was confirmed by Edward I only so far as it touched trespasses to the vert (*Statutes*, i. 243).

of the justices. During this period, the execution or mutilation of an offender must have been an exceptional occurrence: these penalties, it is true, are mentioned in the negotiations which preceded the issue of Magna Carta; but neither in the Petition or Articles of the Barons, nor in the Charter itself, was it considered necessary to require their abolition.

It would therefore be a mistake to regard article 10 of the Charter of 1217 as a notable gain for the inhabitants of the Forest. It made very little difference to their actual position, and did nothing more than pronounce the royal blessing, so to speak, on previous practice. The taking of game was punished by a "heavy ransom"; the impecunious, it is true, were no longer liable to a year's imprisonment; but if they failed to find sureties, they were reduced at the end of this time to the miserable necessity of "abjuring the realm."[1] Still, the threats of dreadful punishments disappeared.

**Article 10 confirms previous practice**

In this last respect, English law was henceforward in advance of the customary law of France. Beaumanoir expressly states that those who poach by night in warrens are liable to be hanged,[2] though he adds that "some people" are not of this opinion. Enguerrand de Coucy having hanged "three young nobles for that they were found in his woods with bows and arrows, [but] without dogs and without other engines whereby they could have taken wild beasts," St. Louis forfeited the wood, which he gave to an abbey, and deprived Enguerrand of "all high justice of woods and fish-ponds, so that he can since that time neither imprison nor put to death for any offence committed there."[3] These passages prove that

**Comparison with the law in France**

1. That is, binding themselves by oath to leave England for ever. See A. Réville, *L'Abjuratio regni, Rev. historique*, Sept.-Oct. 1892, pp. 1 sqq. [See also Benham, *Red Paper Book of Colchester*, p. 33.]

2. Ed. Salmon, i. 474, art. 935. See also the texts of the Customs—for example, the 'Coutumier de Beaumont,' in E. Bonvalot, *Le Tiers Etat d'après la Charte de Beaumont*, Appendix, p. 10.

3. Guillaume de Saint-Pathus, *Vie de Saint-Louis*, ed. H. F. Delaborde, p. 136.

the penalty of death for poaching existed in thirteenth-century France, but that jurists did not unanimously countenance it and that the king controlled its application.

In England the consequences of poaching affected not only the poachers but also all their neighbours. In the pleas of 1209 we read of the amercement of numerous townships and tithings after the discovery of a dead beast or its remains: thus one township is amerced for not having "raised the hue and cry on evil-doers to the king" who have killed a hind; another, because it has not found the offender or because it has gone back on its first evidence.[1] The Charter of the Forest made no change in this very remunerative system of collective responsibility, which must have been most unpopular.

**Collective responsibility remains**

As a rule the exactions of the foresters were for their own personal profit. The Charter of the Forest, therefore, provided safeguards against them. Many foresters made undue demands for sheaves of oats or wheat, for lambs, sucking-pigs, or money, and they also levied "scotale."[2] These extortions were forbidden, and it was agreed that the number of the foresters should be limited. The foresters-in-fee had the right of receiving "chiminage" in the woods of the demesne from the sellers of wood and charcoal: but, as they paid a ferm to the king and kept the revenues for themselves, they would extort very heavy sums, and even claim chiminage from poor folks carrying bundles of faggots or charcoal on their backs, demanding it too in woods outside the demesne. These abuses, which brought nothing to the Treasury, were to cease.[3]

**Checks on extortion**

1. Turner, pp. 1—9.
2. Regarding *scotale*, see Stubbs, *Const. Hist.*, i. 672 and notes, and below, p. 204.
3. Arts. 7, 14. Article 5 does not specify the abuses committed by the regarders. In the pleas of 1209 the references to them are equally obscure (Turner, pp. 6-7).

Frequently also the foresters strove to curtail the customary rights of the people.[1] They received a hint to respect the *communia de herbagio et aliis* in the demesne woods which were not to be disafforested.[2] They often prevented the inhabitants of the Forest from throwing open their pastures until the king's woods had been provided with swine:[3] henceforward every free man might "agist" his own woods at his pleasure, drive his pigs to pasture across the royal demesne, and receive the pannage due to him.[4]

**Protection of rights of common**

These guarantees against the abuse of power by royal officials must have been warmly welcomed. The foresters were renowned for brutality, insolence, and greed. Those whom they had maltreated sometimes took a cruel revenge.[5] But a mere legal enactment was not enough to reform them, and they long remained deservedly unpopular.

The corruption and excessive zeal of the foresters were not peculiar to England. But what, in England, rendered intolerable these and all other abuses of the forest system, constituting them a national grievance against the king, was the fact that the Forest, though royal property and not divided among a number of magnates, was nevertheless larger in England than anywhere else, and that the kings kept on increasing it by arbitrary acts of afforestment. The question of disafforestment consequently seemed of the

**Disafforestment**

1. On the somewhat obscure question of customary rights in the Forest, see Fisher, *Forest of Essex*, ch. v and vi. [Cf. Miss Bazeley, *op. cit.* p. 269.]
2. Art. 1.
3. This may at least be inferred from art. 7 of the Assize of Woodstock (*Sel. Charters*, p. 187).
4. Art. 9.
5. The author of the *Magna Vita S. Hugonis* (p. 178) tells how, at the end of the preceding century, a forester was killed by men whom he had treated with extraordinary insolence. His body was cut into pieces which were carried to three different places. The huntsmen had the same evil reputation; they were, says John of Salisbury, coarse, drunken, and licentious (*Policraticus*, lib. i. cap. iv, cited by Fisher, *Forest of Essex*, p. 199).

greatest importance, and took the foremost place in the Charter of 1217. It was the subject of the first and third articles. Nothing is said there about the forests made by the Norman kings; and in these therefore the forest law continued to be enforced. But the forests created by Henry II were to be viewed by "good and loyal men," and all the woods which he had afforested outside the royal demesne to the damage of their owners, were to be disafforested.[1] There was, moreover, to be an immediate disafforestment of all woods outside the demesne which had been made forest by Richard or John.[2] In granting these articles Henry's advisers were making a very great concession, which the barons had not explicitly demanded in 1215.

Such was the Charter of the Forest. It granted only part of the benefits hoped for in 1215. The extraordinary jurisdiction of the Forest remained. The inhabitants were still oppressed by hateful burdens, subject to irksome restrictions, and liable to heavy collective fines. But a good number of the evil customs from which they suffered, and from which the Great Charter of 1215 had vaguely promised to free them, were now suppressed by law, and, above all, some of them might confidently look forward to the disafforestment of their land and a return to normal conditions. Henceforth the English could appeal to a legal document. The rule of unmitigated despotism had ended, and the decline of the Forest was beginning.

**Significance of the Charter**

1. Art. 1.

2. Art. 3. Cf. above, p. 184. It will be seen that the interpretation of these articles might have been a matter of difficulty. Why select for disafforestment the woods which Henry II had afforested "ad dampnum illius cuius boscus fuerit"? How was this limitation to be understood? Moreover, was it possible to disafforest "statim," without inquisition, the woods afforested by Richard and John? In practice it appears that no difficulties were raised, and all the disafforestments were preceded by inquisitions. On this point see in particular the document published by Turner, p. xcvi. "Statim deafforestentur" was an injunction that could not be carried out, and no attempt was made to enforce it.

(5)

# THE FOREST IN THE THIRTEENTH CENTURY.

**Difficulty of defending the Forest**

The Select Pleas published by Mr. Turner prove that, notwithstanding the maintenance of the forest organisation and the rights which they had refused to surrender, the thirteenth-century kings, Henry III and Edward I, had great difficulty in keeping a hold on their hunting preserves and the revenues which they drew from the Forest.

**i. Encroachments by the inhabitants**

The Forest was a source of many temptations both to those who lived there and to those who were appointed to guard it. It is instructive to note the "chapters" of the great inquisition held in the royal forests in 1244-5 by Robert Passelewe.[1] The commissioners were to investigate the injuries done to the king by the inhabitants of the Forest, who had enlarged their fields at the expense of the vert, put up buildings, made parks and warrens, sold wood and charcoal, pastured cattle and horses, and all without any legal authorisation.[2] According to Matthew Paris, Robert Passelewe punished these offences severely, and despoiled of their goods, drove from their houses, imprisoned, banished, or reduced to beggary, a large number of people, both clergy and laymen, nobles and commons.[3]

1. In regard to Passelewe, see Fisher, *op. cit.*, pp. 107-8.

2. *Inquisitiones de forisfactis diversis super foresta domini regis*, published in the *Additamenta* to the *Chronicle* of M. Paris (vi, 94 sqq.). On the frequency of trespasses to the vert in the 13th century, see Fisher, *Forest of Essex*, pp. 235-6.

3. M. Paris, iv, 400, 426–7. The pipe rolls of 29 Henry III preserve the financial results of this inquisition, and the pleas of 1255 furnish an example of a house built "to the damage of the Forest" in Huntingdonshire, which Passelewe ordered to be pulled down (Turner, p. 18).

Robert Passelewe had also to deal with corrupt foresters. Most of the instructions which he was to follow concern abuses committed by the foresters, and especially the consent which they had given, freely or otherwise, *gratia vel lucro*, to the illegalities of the inhabitants. They were also suspected of selling wood and hay, of wresting justice to their own profit, and of leasing forest land without authority.[1]

**ii. Dishonest foresters**

All these "chapters" of the inquisition were drawn up by men who understood their business. We know, moreover, of the malpractices laid in 1269 to the charge of Peter de Neville, warden of the forest in Rutland. According to the indictment brought against him by the verderers, the regarders, and twelve knights and loyal men, he had in thirteen years appropriated seven thousand trees, either for his personal use, or to sell them, give them to his friends, or make charcoal from them, and he had embezzled numerous fines and dues which ought to have gone to the Treasury, not to mention acts of extortion and violence against the inhabitants.[2] The pleas of the Forest likewise contain cases of subordinate foresters who allowed themselves to be bribed by offenders, or took the king's trees and game for their own benefit.[3]

Poaching was prevalent everywhere. Among those accused are to be found not only professionals, *consueti malefactores de venacione domini regis*,[4] but also university students,[5] a schoolmaster and his assistant,[6] numerous clerks and chaplains,[7] bailiffs and foresters both royal and private,[8] members

**iii. Poaching**

1. *Inquisitiones*, cap. 3, 6 sqq.
2. Turner, p. 44. 3. *Ibid.*, pp. 20–1, 24. 4. *Ibid.*, p. 43.
5. *Ibid.*, pp. 129 sqq. 6. *Ibid.*, p. 21.
7. *Ibid.*, 21, 33, 38, 79, 88, 94, 103, 112, etc. Clerical offenders were in the thirteenth century claimed by the spiritual courts, but they paid the king a composition fixed by the justices of the Forest (Turner, pp. lxxxvii sqq.). 8. *Ibid.*, pp. 20, 36, 39, 110.

of the king's household,[1] and lastly very great lords like earl Ferrers[2] and the earl of Gloucester.[3] There were bands of poachers, up to a dozen strong,[4] hunting on foot or on horseback,[5] with dogs and weapons of all kinds. They cared nothing for the gamekeepers, shot at them, tied them to trees, and sometimes killed them ;[6] and to such lengths did they go that to repress their increasing boldness, the Parliament of 1293 decreed that no proceedings should be taken against foresters, parkers, and warreners if they killed poachers who would not suffer themselves to be arrested.[7] It was the more difficult to catch the poacher that he had accomplices everywhere. He was popular : his exploits were sung in ballads, and he was represented as a redresser of wrongs, a friend of the king and the people. Robin Hood was the model hero. He was an outlaw, he lived on the venison of the Forest and on the superfluities of the rich : but he was courteous ; he was religious, devoted to Our Lady ; and he loved the king more than anyone in the world.[8] In the *Tale of Gamelyn*, the king gives a good reception to Gamelyn, a brigand who sits in judgment on judges and has them hanged, and appoints him " chef justice of al his fre forest."[9] In such ways did popular poetry revenge itself on reality. The king is not responsible for the forest law ; he rather disapproves of it ; and he is full of indulgence for poachers.

During the thirteenth century, in fact, poaching was not very severely treated. Article 10 of the Charter was

1. Turner, pp. 34, 35, 42. 2. *Ibid.*, p. 40. 3. *Ibid.*, p. 34.
4. *Ibid.*, pp. 8, 17, 39, 77, 80, 99.
5. " Equites et pedites " (*ibid.*, p. 22).
6. *Ibid.*, pp. 8, 28, 38–9, 77, 80–1.
7. *Statutum de malefactoribus in parcis* (*Statutes* i, 111–2). This statute applies to the chases of the nobles as well as to the king's Forest.
8. See the cycle of the ballads of Robin Hood (12th—15th century) in vol. v. of *English and Scottish Popular Ballads*, published by F. J. Child ; cf. his introduction, p. 42.
9. This story, attributed to Chaucer, probably dates from the 13th century. Dr. Skeat has not included it in his edition of Chaucer, but has published it separately.

**Leniency towards poachers**

leniently enforced. The "heavy ransom" was fixed in proportion to the means of the guilty person, and seldom exceeded six or seven shillings. The fine was really "heavy" only when it was imposed on a delinquent of good family, or on an official, a verderer for instance, who had betrayed his trust by taking the king's beasts for himself. Poor men were often pardoned or set at liberty in consideration of the detention they had undergone before their trial.[1] Poachers, in short, seem in the thirteenth century to have been treated with a relative leniency which cannot have made for the diminution of their numbers.

**The forest system still irksome**

Nevertheless the administration and the justice of the Forest remained irritating and unpopular because evil-doers were not the only ones punished. To pass through the Forest with hunting-dogs which frightened the game was enough to send a man to gaol.[2] One man was prosecuted for "having stupidly entered the forest with a bow and arrows."[3] A boy found a dead fawn and carried it away, not knowing that he was doing wrong; he was kept in prison for over a year.[4] At the smallest indication of anything amiss, an inquisition was set on foot, and the four nearest townships had to find and produce the culprit. Whether it was a question of a landowner who had let his dogs run loose or of a poacher who after shooting a forester had fled under cover of darkness, mattered nothing; if the townships "did not come fully," as it was put—that is to say, if they did not accuse anyone—they had to pay a fine of at least 6s. 8d., and often as much as six marks.[5]

Thus offenders who were caught got off lightly, and the law-abiding inhabitants paid for those who escaped.

1. For details see Turner, pp. lxv–vi., [and also Miss Bazeley, *op. cit.*, pp. 109 sqq., where there is some extremely interesting matter on poaching in the Forest of Dean in the 13th century.]
2. Turner, p. 31. 3. *Ibid.*, p. 17. 4. *Ibid.*, p. 29.
5. *Ibid.*, pp. 18, 28, etc., and Introduction, pp. xlviii, lxiii.

**Tyranny and extortion of the foresters**

The unpopularity of the whole forest system was rendered complete by the violence and exactions of the foresters. Some in their zeal collected illegal fines for the exchequer. Others were extortionate for their own advantage. In Rutland the warden of the Forest set the example: an extant record enumerates the arbitrary imprisonments inflicted by Peter de Neville to wring money from the inhabitants, and tells how on fanciful pretexts he levied fines, which he of course forgot to hand over to the exchequer.[1] The unlawful holding of pleas was also one of the most common complaints. Chapter XXI of the *Instructions* of 1244 concerns this abuse of power: "Item, to enquire if foresters-in-fee or others have held any plea of the vert or the venison, which belongs to the king and his chief justice; to discover those who have thus received fines and amercements, and which and how much."[2] But the inhabitants had to suffer many other kinds of extortion, and the foresters-in-fee were not the only, or even the chief, offenders. Being well off, they were not much feared by the people,[3] who were far more afraid of the insatiable greed of the subordinate officers. Through desire of gain, the wardens of the forests appointed foresters in much greater numbers than were necessary; these bought their offices and also paid an annual ferm to the warden.[4] Sometimes they were actually dismissed as soon as appointed, that their posts might be sold again to others.[5] Naturally, the under-foresters, liable to such extortions, were extortionate in their turn.

1. Turner, pp. 49 sqq. 2. M. Paris, vi, *Additamenta*, 98.
3. The inhabitants preferred the foresters-in-fee (Turner, p. cxxxix).
4. "La met le chef forester les foresters suz ly, a chival e a pe, a suen voler, saunz le veue de nuly, e plus ke ne suffist a garder la Forest dreyturele, par le lur donaunt sicum il puent finir pur aver baylye, a graunt damage e a grevaunce del pays" (*Grievances of the People of Somerset*, 1279, in Turner, p. 126, § 4; cf. also p. 128, § 8).
5. In the chapters of the Inquisition of 1244 this dishonest traffic is attributed to the foresters-in-fee, who indeed did in many places nominate the under-foresters (M. Paris, vi, *Additamenta*, 96; cf. *Fleta*, ii, c. 41, § 36).

The " grievances of the people and commonalty of the forests in Somerset " give us a clear idea of the abuses complained of in 1279 by the inhabitants of a single county. They speak only of acts contrary to the Charter of the Forest. They were forced to pay ancient dues for assart, waste, and purpresture, from which article 4 exempted them. In some districts they were deprived of the right of pasture.[1] They were summoned to the swanimote, with a view to the subsequent amercement of defaulters. The officers ordered the complete mutilation of the paws of their dogs. They levied tolls prohibited by the Charter. Furthermore, the unmounted foresters came to the villages in August claiming sheaves, lambs, young pigs, wool, and linen : with the grain given them they brewed beer and forced the peasants to buy it.[2] And after them came their mounted colleagues, and did the same.[3]

**Grievances of the people of Somerset**

It is not astonishing that the hatred of the peasants for the foresters continued unabated, and even led them to bring against their oppressors false accusations of stealing the king's deer and wood.[4]

On the subject of corrupt foresters, the king and the nation were necessarily in agreement, for, to use the ingenuous but weighty argument of the people of Somerset, " from these things the king has no profit."[5] That is why Henry III and Edward I ordered inquisitions into the conduct of the foresters. During his progress in 1244 and 1245, Robert Passelewe dealt with the case of the *prothoforestarius*, the justice John de Neville, whose place, moreover, he wanted to get. Notwithstanding the support he received,

**Punishment of extortion**

**Inquisitions under Henry III**

1. See also on the question of common of pasture, the grievances put forward by the people of Huntingdonshire in 1255 (Turner, pp. 25-6).
2. This is an example of the abuse of " scotale." See above, p. 196.
3. Turner, pp. 125 sqq.
4. " Odio et hatya " (*ibid.*, p. 37).
5. Turner, p. 128.

John was "shamefully convicted, and from being rich became wretched"; he was pitied by nobody because he had been without pity for others.[1] The inquisition of 1253 in Northamptonshire was concerned, among other matters, with the conduct of the foresters.[2] The general eyre of 1269—1271 was instituted mainly to deal with the same subject, and it was then that discovery was made of the peculation and extortion of Peter de Neville, warden of the forest of Rutland. Peter de Neville succeeded in getting out of his evil plight; and his outlawry in 1273 was for another offence.[3]

It is well known with what thoroughness Edward I administered his own affairs and those of his subjects. Resolved as he was to keep in touch with every branch of the administration, he turned his attention to the Forest soon after he came back to England in 1274 and assumed the reins of government. As early as 1277 he ordered a great inquisition in the forests south of the Trent, declaring that he wished the Charter of the Forest to be observed in all its articles,[4] and in the following years he instituted similar inquiries,[5] which sometimes led to the removal of officers.[6] The lawyer who about 1290 wrote *Fleta* has preserved the list of the questions which were put by the commissioners: they had in particular to enquire if the foresters were too numerous, if they levied illegal requisitions, and if they made profits for themselves at the expense of the exchequer.[7]

**Inquisitions under Edward I**

These inquisitions of the first part of the reign encouraged the presentation of lists of grievances, like

1. M. Paris, iv. 401, 427.
2. Turner, pp. 108 sqq.
3. *Ibid.*, pp. 43 sqq.; *Introduction*, pp. xvii, lxviii sqq.
4. The letters-patent are dated 1 March, 1277 (*C.P.R.* 1272-81, p. 237).
5. See an example of the thirteenth year of the reign (Turner, p. lxix, n. 4).
6. As, e.g., of Robert of Everingham, in Sherwood Forest (*ibid.*, p. 66).
7. *Fleta*, ch. 41.

**Edward I's Assize**

the *Gravamina* of "the people of Somerset," and resulted—as early as 1278, if we are to believe Manwood[1]—in the publication of the *Consuetudines et Assise de Foresta*. This document summarises very briefly the existing customs and laws concerning trespasses to the vert and the venison, the procedure of the courts, the duties of the inhabitants and of the foresters with a view to the preservation of the game, and so forth.[2] Theoretically, this forest code was still in force in the sixteenth century, and Manwood translated the whole of it in his treatise.

**Discontent with the forest administration under Edward I**

The *Consuetudines et Assise* were intended to safeguard the rights of the king and not those of the inhabitants of the Forest. We get the impression that this was almost exclusively Edward's aim when he instituted forest inquisitions during the first part of his reign. It was likewise the chief concern of his itinerant justices. This is clearly shown by the Provisions published in 1287 by William de Vescy, justice of the Forest north of the Trent: their sole object is to ensure the strict suppression of offences.[3]

Stubbs expresses astonishment at the violence of the complaints raised in 1297, at the time when the king was trying to collect money and troops in order to fight Philip the Fair in Gascony and Flanders. In his opinion, Edward I had governed according to the spirit of the Charters and the charge of having violated them was "vague declamation."[4] With regard to the Forest, we have just seen that the royal administration was open

1. "There is no indication," says M. Bémont, "that Manwood imagined this date" (*Chartes des lib. ang., Introd.*, p. lxv, n. 4). Nevertheless Manwood may have simply assumed that the issue of the *Consuetudines* took place immediately after the inquisition of 1277. M. Bémont remarks elsewhere (p. 97, n. 1) that in the old manuscript collections of statutes this document is placed among those of 1290-91. Cf. Mr. Turner's observations (p. xxxvii, n. 4). According to him the first eleven articles date from the beginning of the reign of Henry III, or even from the reign of John.

2. *Statutes*, i, 243 sqq. 3. Turner, pp. 62 sqq.

4. Stubbs, *Const. Hist.*, ed. 1896, ii, 150 sqq.

to criticism: it was not in agreement with the spirit of forbearance and equity which inspired the Charter of 1217 and guided Henry III's Council of Regency; it was still, as under the personal rule of Henry III, narrowly jealous of its rights and careless of the sufferings endured by the inhabitants of the Forest. It was therefore natural that these should accuse Edward of not keeping the promises of his father, and that when in a moment of exasperation the nation drew up its list of grievances, they should add a clause of their own.

**Crisis of 1297 The observance of the Charter of the Forest demanded**

On 16 July, 1297, at the time when the marshal and the constable had just refused to serve overseas, archbishop Winchelsey summoned his clergy to deliberate on the need of a confirmation of the "great charters of liberties and of the Forest,"[1] and some days later the king promised to confirm them in return for an aid.[2] In a manifesto which was circulated at this juncture, the opposition complained of the violation of the Charter and of the Assize of the Forest, laying stress on illegal attachments.[3]

When the king had sailed for Flanders, his opponents succeeded in obtaining guarantees not only against arbitrary impositions, but against the severities of the

1. " . . . Articulus arduus videlicet de Magnis Cartis libertatum et Foreste salubriter innovandis, et de iuribus ac libertatibus ecclesie Anglicane, que hactenus deciderunt et adhuc continue decidunt in abusum, recuperandis a principe " (*Parl. Writs*, i, 53).

2. " . . . Pur aver le confermement de la graunt chartre des fraunchises d'Engleterre et de la chartre de la Forest, lequeu confermement le roy leur ad graunté bonement, si li graunterent un commun doun tel com lui est mult besoygnable ou poynt de ore " (Royal proclamation of 12 Aug. 1297: Bémont, *Chartes*, pp. 83-4). We have adopted the chronology established by M. Bémont in the excellent Introduction to his collection (p. xxxvii). It is, indeed, not at all probable that the reconciliation of the king and the archbishop occurred, as Stubbs supposes, on 14 July—that is to say, before the despatch of the summons cited above.

3. " . . . Preter hec, communitas terre sentit nimis se gravatam de assisa foreste, que non est custodita sicut consuevit, nec charta foreste observatur; sed fiunt attachiamenta pro libitu extra assisam aliter quam fieri solebant " (*Articuli quos comites petierunt nomine communitatis*, art. 5: Bémont, *op. cit.*, p. 78). On this manifesto, cf. Bémont, p. xxxviii, and Stubbs, *Const. Hist.*, ii, 143.

forest administration. As early as 10 October, the regency granted them the *Confirmatio Cartarum;* the document was sent to Edward, who surrounded by difficulties as he was, could do nothing but agree to it. He sealed it with the great seal at Ghent, on 5 November. In the first article the king confirmed, along with Magna Carta, the Charter of the Forest, gave orders that it should be sent to all the counties and put into force by all officials and justices, according to the Assize of the Forest, that is to say, in agreement with the rules laid down in the *Consuetudines et Assise Foreste.*[1] On 26 November he initiated inquisitions in twenty-four counties; since they were being made for the benefit of the inhabitants of the Forest, these were to bear the expense.[2] But the *Confirmatio Cartarum* and this inquisition, like those which had been held before, led to no radical change in the forest system.

**Confirmation of the Charter**

After experiencing so many disappointments, the English had good reason to think that the only effectual means of diminishing abuses was to diminish the Forest itself. And indeed, after 1298, the quarrel about the Forest, at the same time that it grew more bitter, became a quarrel about disafforestment. Men were much less concerned to obtain the punishment of guilty foresters than to limit the operation of the evil by making the Forest smaller. This question of disafforestment must now be the chief object of our enquiry and the subject of a separate chapter. But before showing its importance at the end of the reign of Edward I, it will be necessary to look back. In 1298 it had become a problem crying for solution, but it had been in existence long before. During the whole of the thirteenth century, the English had never ceased to demand the execution of the promises made on this matter in Magna Carta and the Charter of the Forest.

1. Bémont, *op. cit.*, pp. 96 sqq. 2. *Parl. Writs*, i, 396–7.

(6)

## THE STRUGGLE FOR DISAFFORESTMENT.

**Analogies between England and France**

Despite a few picturesque details furnished by judicial records, what has just been said about the Forest in the reigns of Henry III and Edward I is in many respects somewhat commonplace and not at all peculiar to English history. Encroachments at the expense of the Forest, the stealing of game, the annoyances experienced by the inhabitants, the exactions of the foresters, the intermittent efforts of the crown to obtain a better administration—these are facts which can for the most part be found in French documents of the same period, such as the reports of the inquisitors appointed by St. Louis, decisions of the *Parlement*, or royal letters. In France also a long peace, the increase of population, and agricultural prosperity, led to encroachments on the Forest by rural landholders. In France also there were poachers, both professional and amateur, and among them many ecclesiastics and foresters. In France also brutal means were used by the officials to protect the forests and warrens from unlawful injury. Trespasses were punished even more severely perhaps than in England, and without question more arbitrarily, for the machinery of forest justice worked with much less regularity, and complaints against unjust fines were innumerable. Encroachments were forbidden; compensation for purpresture was exacted; the extension of customary rights was opposed, and very often attempts were made to curtail those which had existed from time immemorial. In France also there were corrupt and oppressive foresters, and extortionate serjeants: and an

inquisition concerning a verderer of the Forest of Brix[1] makes a fitting companion to the case of Peter de Neville.

**Why the Forest was of political importance in England alone**

In England, however, the history of the Forest has an importance which it entirely lacks in France. In England it plays a part in the history of the great constitutional crises. The reason is that immense tracts had been afforested to the advantage of the crown, whereas in France the hunting preserves of the Capetians were of modest extent. During the thirteenth century a problem which gave no trouble in France, was already causing serious disputes in England: the king wished to maintain his Forest, and his people demanded at least its partial surrender. It was principally the struggle for disafforestment which connected the history of the Forest with the history of the English constitution.

**Why the king refused to surrender the Forest**

In resisting the demand, the king was not only fighting for his prerogative, for the continuance of the arbitrary jurisdiction so precisely defined by the author of the *Dialogus de Scaccario*: he was also fighting for his Treasury. He was loth to lose the fruits of forest justice, the rents for assarts, the great profits derived from the sale of game. It must not be overlooked that in the thirteenth century red deer, fallow deer, and roes, killed and salted by the king's huntsmen, were sold by the hundred.[2] The Forest was certainly the source of a large income. The whole of it was not necessary for the king's sport, for no king ever hunted in all his forests, but it was necessary if the royal budget was to balance.[3]

1. *Cartulaire normand*, no. 1222 (A.D. 1272).

2. In a single day four hundred of these beasts were killed by Edward I and his huntsmen in the forest of Inglewood. The pipe rolls of Henry III record the wages paid for killing and salting, for instance, 235 roes, or 200 harts, or 200 hinds (F. H. M. Parker, *Forest Laws, Eng. Hist. Rev.*, 1912, p. 29). [See also the interesting details given by Miss Bazeley, p. 239.]

3. [In regard to the financial value of the Forest, see Miss Bazeley's careful analysis of the revenue derived from the Forest of Dean. She concludes that, between the years 1155 and 1307, the average income from this forest was about £75 per annum (*op. cit.*, chap. iii).]

In view of this, the king might justly have charged his opponents with putting forward two inconsistent claims: they grumbled because he kept his Forest, and, on the other hand, they called on him to refrain from extraordinary taxation, to "live of his own," and not to alienate the revenues of the crown.

**All classes anxious for disafforestmen**

But the forest system was excessively irksome, even in the thirteenth century, to all who held land within its sphere. Whether they were peasants or great landlords, they paid fines and rents, and were constantly exposed to interference, both in developing their property and in their daily lives. In general they had not even the satisfaction of hunting the game which fed on their lands; for, in the thirteenth century, licenses to hunt in the Forest were with few exceptions granted only within the narrow limits prescribed by the Charter.[1] The Assize of Edward I expressly mentions that the abbot of Peterborough has the right of hunting the hare, fox, and rabbit in the Forest and of keeping unlawed dogs, showing that at this time no other magnate enjoyed these privileges.[2] To estimate the discontent which must have been felt, we need only recall how great a part was played by the chase in the life of a mediæval man. It was the favourite sport of the nobles; in time of peace it offered a substitute for war, and was as dear to their hearts as the tournament itself. It likewise gave enjoyment to the middle and poorer classes. Moreover, for the people as well as for the king, hunting was not only a pastime but also a source of profit. The venison, the fur, the skins had much more value than now as food, clothing, and writing material. Every class of the nation was interested

1. See the lists of game taken by bishops, earls, and barons in accordance with Article 2 of the Charter or by special writ, and also the references to gifts of game, in Turner, pp. 92–3, 95, 98, 102, 104, 105, 108, 113.

2. *Statutes*, i, 245. Edward I granted to the Bishop of Winchester the right to hunt in the Forest, but only within the limits of the episcopal demesne. (*Rot. Parl.*, i. 25).

in the curtailment of the Forest as a step towards its complete abolition.

Why the nobles took the lead in the struggle

Of all the inhabitants of the Forest, the small landholders no doubt suffered most from the law, but there is no ground for astonishment in the fact that, as we shall see, the nobility almost always took the lead in the fight for disafforestment. They alone had enough authority to demand a diminution of the rights of the crown, and, in this particular case, they were directly interested in their object. The commons took no prominent part in the struggle, although it was a matter of intense importance to many poor people. Their inaction is the less remarkable if we remember the obstinate humility with which, during the Hundred Years' War, they constantly refused to express an opinion on the question of peace with France.

Vicissitudes of the Forest in the 13th century

In the first quarter of the thirteenth century, it might have been thought that the Forest would be quickly reduced within reasonable limits. At first to cope with the pressing need of money, and afterwards to conciliate its enemies in very critical circumstances, the crown had made promises and had begun to execute them. But when Henry III came of age, a reaction set in, and disafforestment seemed so injurious to the royal finances that even some of the concessions that had been made were revoked.

Early disafforestments

The early history of disafforestment is lost in the night of time. It probably begins with the history of the Forest itself. In the Assize of Woodstock Henry II speaks of "woods and other places disafforested by him and his ancestors."[1] It is clear that most of these ancient disafforestments had a financial motive. At all events, we know that Richard I had recourse to this method of

1. Art. 16; *Sel. Charters*, p. 188.

raising money[1] and that John followed his example. Roger of Wendover tells us that when Philip Augustus was conquering Normandy and Poitou, John, finding his subjects unwilling to follow him for the recovery of his lost heritage, oppressed them in a thousand ways.[2] The charter rolls prove that one of his devices for raising money was the surrender of parts of the Forest. We have a series of documents, dated March and May 1204, which disafforest the New Forest of Staffordshire, the Forest of Brewood in Shropshire, nearly all Cornwall and Devon, part of Essex, and other districts.[3] It is known that the *homines de Essexa* gave 500 marks for the disafforestments which were conceded to them,[4] and that, at the forest pleas of 1209, the inhabitants of Brewood Forest paid 100 marks to obtain the execution of the Charter of disafforestment granted in 1204.[5] During the crisis of 1215, three weeks before the granting of Magna Carta, when John was trying by a partial surrender to break up the coalition formed against him, he promised to abandon what remained of the Forest in Cornwall.[6] On the other hand, when Magna Carta was forced on him by the barons, he succeeded, as we have seen, in evading all compromising pledges on this subject.

**Disafforestments of 1204**

During the ten years after the death of John, Henry III's Council of Regency, having granted the Charter of the Forest, applied it faithfully, the articles on disafforestment included. They might have postponed the execution of these clauses, for it was a rule

**Disafforestments during Henry III's minority**

1. A reference in the pipe rolls of Richard I and the report of a perambulation made on 5 March, 1300, show that Richard at the beginning of his reign disafforested part of Surrey, and that in return the knights of that county gave him 300 marks. (The documents are published by Turner, pp. 117, 118, n. 1.)
2. Wendover in M. Paris, ed. cit. ii, 483.
3. *Rot. Chartarum* (ed. Hardy), pp. 122–3, 128, 132.
4. Round, *Forest of Essex, loc. cit.* pp. 40–1.
5. Turner, pp. 9, 10 n. 1.
6. See the charter of 22 April, 1215 (*Rot. Chart.*, p. 206).

of English law that a minor was not competent to make an irrevocable grant of land, and an ordinance of 1218 laid down that the young king could make no gift in perpetuity during his minority.[1] Now it was a considerable gift to surrender the forest rights of the crown over vast territories. Nevertheless, as early as 1218 and 1219, *perambulationes*, or *pourallées*, were instituted, in view of the impending disafforestments,[2] and others were set on foot when, on 11 February 1225, the Charter of the Forest was re-published. Some districts were certainly disafforested after these inquisitions, but there is little trace of their results.[3]

When on 9 January 1227, Henry III declared himself of age, did he intend, as Stubbs believes,[4] to revoke the Charter, or, at least, to demand money for executing the clauses concerning disafforestment? According to the narrative of Roger of Wendover, the earls who rebelled in July 1227, accused him of having "cancelled the charters of the liberties of the Forest."[5] In 1258 the "earls and barons" complained that he had "reafforested" woods and lands not contained within the bounds of the Forest: these woods and lands had been

**Reaction when Henry came of age**

**Did Henry III revoke the Charter?**

1. G. J. Turner, *Minority of Henry III.*, in *Trans. Royal Hist. Soc., New Series*, xviii (1904), 280. The ordinance is in Rymer, Record ed., i, pt. i, p. 152.

2. *Patent Rolls*, 1216-25, p. 162: On 24 July, 1218, writs were sent to the sheriffs and letters-patent to John le Marshal, *capitalis iusticarius de Foresta Anglie*, commissioned to superintend the disafforestments in accordance with the charter; see also (p. 178) the writ of 9 Nov., 1218, and (pp. 190 sqq., 193, 197 *et passim*) the letters of 1219 on disafforestments in various counties.

3. Turner, *Sel. Pleas*, pp. xciv sqq. An extract from the pipe rolls (quoted *ibid.*, p. xcv, n. 8) proves that the cost of carrying out the disafforestments was borne by the inhabitants of the counties affected.

4. Stubbs, *Const. Hist.*, ii, 40.

5. "[Comites] addiderunt insuper, regi denuntiantes atrociter, ut cartas, quas nuper apud Oxoniam cancellaverat, de libertatibus forestae, sibi absque dilatione restitueret sigillatas. Sin autem ipsi illum gladiis discurrentibus compellerent, ut sibi super his satisfaceret competenter. Tunc rex statuit illis apud Norhamtonam tertio nonas Augusti diem, ut ibi faceret eis plenam rectitudinem exhiberi" (M. Paris, *ed. cit.*, iii. 125).

disafforested as a result of the "perambulation of good men" and in fulfilment of the promise made by the king[1] in return for the fifteenth of all the movable goods of his subjects. This complaint, which appears in the famous petition presented at the parliament of Oxford,[2] was well-founded, but it must not be thought that in 1227, as Wendover asserts, the Charter had been revoked.[3] What happened was this. In a certain number of counties, the knights charged with the perambulation had disafforested districts which had indeed been made forest by Henry II after his coronation, but which had already formed part of the Forest under Henry I, before the disafforestments of the reign of Stephen. Henry III considered that it was just to restore these districts to the Forest, and took measures accordingly.[4]

The explanation given by Stubbs, generally so accu-

1. The reference is to the confirmation of the Charter of the Forest dated 11 Feb., 1225. Henry explicitly stated that for this confirmation and that of the Great Charter his subjects had given him a fifteenth of their movable goods (see the document in Bémont, *Chartes*, p. 69, n. 5).

2. *Sel. Charters*, p. 374, art. 7.

3. Lingard (*History of England*, 6th ed., ii, 196, n. 3) and Pauli (*Geschichte von England*, ed. 1853, iii, 564, n. 3) observe that no document confirms this assertion and that some contradict it.

4. See the letters of the king to Henry de Neville, 9 Feb., 1227: The knights charged with the perambulation in Leicestershire have admitted before the king "quod ipsi in perambulatione illa transgressi sunt, decepti ex eo quod breve nostrum de perambulatione illa facienda eis transmissum continebat quod ipsi deafforestarent omnes boscos quos H. rex avus noster afforestaverit, et non excepit eos qui ante tempus suum foresta fuerunt et quos ipse postea ad forestam revocavit; unde credebant quod tam deafforestandi fuerunt bosci quos ipse ad forestam revocavit quam illi quos de novo afforestavit." There are similar letters concerning the perambulations in Rutland and Huntingdonshire (*Rot. Lit. Claus.*, ed. Hardy, ii, 169); also letters of 20 April, 1228, pardoning the knights charged with the perambulations in Lancashire, Staffordshire, Surrey, Salop, Northants, and Worcestershire, "qui recognoverunt quod ipsi in perambulatione illa erga nos per ignorantiam et errorem transgressi sunt" (*Pat. Rolls*, 1225-1232, p. 184). Cf. the similar letters for the commissioners in Yorkshire (*ibid.*, p. 225). It is significant that in 1220 the Council of Regency was already asking if the perambulation of the Forest between the Ouse and the Derwent could be accepted: "utrum perambulacio ipsius Foreste iuste facta fuerit" (*ibid.*, 1216-1226, 231). Doubts were also felt in 1226 (Turner, xcviii, n. 8).

rate, is therefore quite erroneous. He has confused—at least by his method of stating them—facts belonging to different categories. In his eyes the revocation of the disafforestments in 1227 was "merely a means for raising money; £100,000 was obtained by the repurchase of the grants imperilled; a tallage was asked of the towns and demesne lands of the crown, and the charters remained in force." If reference be made to the authorities which he cites, neither those which relate to the confirmation of the concessions, nor those which concern the tallage, make any mention of disafforestment.

**Stubbs' version**

It is the more necessary to ascertain and remember the principle laid down by Henry III in 1227, because his successors, Edward I in particular, appealed to it in their turn when defending the Forest. The Plantagenets, in short, claimed the right of keeping the districts which Henry I had afforested and which the weakness of Stephen had allowed to slip back for some years into the sphere of the common law. This claim was of doubtful validity. At his accession Stephen had solemnly renounced *all the forests made by Henry I*, and in article 1 of the Charter of 1217 it was simply said that the woods *afforested by Henry II* outside the demesne were to be disafforested. The opposition therefore had good grounds for arguing that the lands afforested under Henry I and disafforested under Stephen were no legal part of the Forest—those in the royal demesne excepted—and that lands disafforested by Stephen ought not to be retained in the Forest unless they had already belonged to it in the time of William Rufus. It is not certain, however, that the questions in dispute were so precisely stated, or that the validity of Stephen's charter was a subject of discussion.

**Questionable validity of the principle laid down by Henry III**

At all events, the measures adopted by Henry III were regarded as a violation of the promises made in 1217.

**Unpopularity of his action**

When the limitation of an abuse has been granted, such vacillation in executing the reforms is not likely to be tolerated, whatever legal justification it may claim. Hence the indignation of the barons, whom Wendover represents as protesting, in July, 1227, against the abolition of the "Charters of the liberties of the Forest," demanding their restitution, and threatening the king with an appeal to arms. From this account, which is certainly inaccurate, nothing can be concluded except that the barons were annoyed at the announcement, made at the beginning of the year, that certain disafforestments were to be revoked. Henry may have given fair promises to appease them, but he none the less persisted in the resumption of districts which had been unduly disafforested.[1] Twenty years later this was still one of the complaints urged against him. At the Mad Parliament, as we have just said, the barons called upon him to surrender these districts once and for all. They complained also that the king had granted rights of warren on disafforested lands, maintaining that on these the chase should be free.[2] Their recriminations seem to have led to no result.

**The situation at Edward I's accession**

When Edward I came to the throne, articles 1 and 3 of the charter were still only in part carried out: the forests created since the accession of Henry II had not all been disafforested.[3] Certain woods which ought to have been disafforested, say the people of Somerset in their complaints of 1279, remain in the Forest, "contrary to the Charter and to the grievance of the country."[4]

1. Turner, p. ci. We have an example in the re-afforestation of Essex (Fisher, *Forest of Essex*, pp. 25 sqq.).
2. *Sel. Charters*, p. 374, arts. 7 and 9.
3. The only counties which had been entirely freed from the forest law by Henry III were Leicestershire and Sussex. Middlesex may be added if we count the suppression of the warren of Staines (Turner, p. cvii).
4. Turner, p. 125.

In letters-patent of 1 March 1277,[1] as we have said above, Edward I announced his resolve to keep the Charter of the Forest inviolably, and ordered an inquisition in the Forests south of the Trent. This inquisition was instituted not only to discover and repress abuses, but also to "make the perambulation," in obedience to the Charter. Nevertheless, the royal commissions and the juries were "to make a just perambulation, namely, that which was made in the time of the lord king Henry our father, which has not yet been impugned."[2] This clause meant that they had to limit themselves to decisions made by the commissioners of Henry III.[3] The king added that no executive measures were to be taken until reference had been made to him. In a word, he granted a perambulation, but he was resolved that the limits of the Forest should remain as they were fixed by his predecessor.

**First perambulations of the reign**

Edward's subjects refused to be satisfied with this illusory concession. The perambulations of Exmoor Forest, published by Mr. Greswell in an English translation, show that the struggle for disafforestment was already beginning to be waged between Edward and his people. In 1279 the jurors strove to prove that a large district, comprising at least half of this forest, ought to be disafforested. They alleged that this region had been included in the Forest by John, surrendered by Henry III, "when a fifteenth of the movable goods of all England was given him,"[4] and again afforested by the

1. *C.P.R.*, 1272–81, i, 237. One of these letters has been published in the Introduction to the *Select Pleas* (p. cii). Mr. Turner has not stated whether the inquisition led to any definite result, nor has he mentioned the very typical perambulations of the Forest of Exmoor, which are well worth publishing in their original text.

2. " . . . ut fiat perambulacio recta, illa scilicet que facta fuit tempore domini Henrici regis patris nostri, que nondum calumpniata fuit."

3. This is proved by a document cited by Greswell, *Forests of Somerset*, p. 275.

4. In 1225; see above, p. 215.

forester-in-fee, Richard de Wrotham, "to the great damage of the whole country and without profit to the king." A second perambulation made in the same year by another jury curtailed still further the part which the king had a right to keep. There is decisive documentary evidence that Edward I retained Exmoor Forest in its full extent.[1] Throughout his life he was to play the same game of granting and then taking back. It is perhaps in this quarrel about disafforestment that his leaning towards chicane and subterfuge appears most clearly.

**Perambulations authorised by the regency in 1297**

In 1297 the departure of the king for Flanders left the field clear for the opposition. Like the Council which had governed during the minority of Henry III, the regents who were at the head of affairs during Edward's absence adopted a conciliatory policy. Some days after the grant of the *Confirmatio Cartarum*, and even before it was ratified by the king, the regency ordered perambulations to be made,[2] and it is at least certain that they were carried out in Hampshire and Somerset. Mr. Greswell has published the record of the perambulations made, in March and May, 1298, in the Somersetshire forests of Selwood, Neroche, and Mendip.[3] But just at this moment Edward came back to England determined on resistance. Then began the great battle for disafforestment.

1. Greswell, *Forests of Somerset*, pp. 171 sqq. See the map, p. 176. Mr. Greswell is not sure that the perambulations of 1279 were not put into effect: but the documents which he publishes on pp. 176–9 (perambulation of 1298) and pp. 199 sqq. (seizure of the wood of Dulverton in 1291) prove clearly that they never were.—In 1280 Edward I disafforested Northumberland, but only in consideration of an annual rent of forty pounds (Turner, p. cviii). In 1300 this county appears among those which have no forest (*Parl. Writs*, i, 91).

2. In the first instance, in the letters-patent of 16 Oct., 1297 (*C.P.R.*, 1292–1301, p. 312) the regent copied the wording of the letters of 1 March, 1277, which we have cited above, including the limitation of the commissioners to the "perambulacio recta;" but this restriction was afterwards withdrawn. See Turner, p. ciii.

3. *Op. cit.*, App. B, pp. 265 sqq. The unpublished perambulation of Hampshire is referred to by Turner, p. ciii, n. 6.

At Whitsuntide 1298, Edward's opponents, led by the earls of Norfolk and Hereford, demanded a new confirmation of the charters and a general delimitation of the Forest.[1] Now that the king was back, they expected that everything would have to be done over again. Edward justified their mistrust. First, he asked for time. Then, on 18 November, he appointed a commission, consisting of three bishops, two earls, and two knights, "to investigate and examine" the misdeeds of justices, foresters, verderers, and other officers of the forests throughout the realm. But nothing was said in the writ about disafforestment.[2] Next year, after much tergiversation, he appeared to be giving way before the threat of civil war,[3] and on 2 April he commanded the sheriffs[4] to enforce the observance of the Great Charter and the Charter of the Forest, the latter "according to the articles written below": a copy of the charter was annexed, from which the articles regarding disafforestment were omitted. Edward added, it is true, that he wished the perambulation to be made, but *saving his oath and the rights of his crown*, and he intended to have the report of the commissioners submitted to him before any part of the Forest was surrendered. Finally, he asked for a further postponement of the perambulation: it should be made as soon as possible, when once he had completed the negotiations with the envoys who would shortly arrive from Rome on business which concerned all Christendom—namely, the Crusade.

**The king's return**

**He pretends to yield**

**His reservations**

These reservations and dilatory measures aroused an indignation which alarmed him. He gave way, as he

1. Blackstone, *Magna Carta*, Introd., p. lxviii. 2. *Parl. Writs*, i, 397.
3. At the Parliament of 8 March, 1299. Cf. Bémont, *Introd.*, pp. xliv sqq.
4. In the instructions, inserted in the statute rolls, which are known as the *Statutum de finibus levatis* (*Statutes*, i, 126 sqq.). See the passages cited by Bémont (p. lxv, n. 2) and Stubbs, *Const. Hist.*, ii, 154, n. 4.

**Anger of the barons. Parliament of May, 1299**

always did when he feared a complete breach with his subjects. On 3 May, he again called together the barons and prelates, whom he had just dismissed, and this time, according to a chronicler, he granted "everything" and pledged himself afresh to initiate a perambulation.[1] On 25 June, in a proclamation to his subjects, he complained of being so hardly pressed; he had to deal with urgent matters which would occupy him till the middle of July; the perambulation, moreover, could scarcely be made at the time of harvest; his people ought not to believe malicious reports, circulated to sow dissension between the king and his subjects; he promised that the commissioners for the perambulation should meet in Northampton at Michaelmas.[2] And on 23 September he did in fact nominate five of his most experienced judges, Roger de Brabazon, John de Berwick, Ralph de Hingham, William Inge, and John de Croxley,

**Perambulation of 1299-1300**

who during the winter were to make the perambulation in Northants, Huntingdonshire, Rutland, Oxfordshire, and Surrey.[3] The evidence of the juries appears to have been honestly given, and conscientiously recorded by the commission.[4]

Nevertheless, king and nation still distrusted each other, as is shown by the articles published after the

**Parliament of March, 1300**

Parliament of March, 1300. The king was forced to recognise that, for want of special safeguards, the charters had never been faithfully observed by the royal officials, and a demand was made for the appointment of elective commissions similar to those which had been forced on King

1. Trivet, *Annales*, ed. Hog, pp. 375–6.
2. *C.P.R.*, 1292–1301, p. 424; Blackstone, *op. cit.* p. lxix.
3. Turner, p. civ; the report of the perambulation in Rutland (7 Dec., 1299) is to be found on pp. 116–117; that for Surrey (5 March, 1300) on pp. 117–118.
4. In Rutland the jurors mentioned a district afforested by John. In Surrey they declared that they knew of no afforestment made since the accession of Henry II.

John. Though at heart determined to surrender nothing of his prerogative, Edward pretended to yield. In the *Articuli super Cartas,* he declared that the Charter of the Forest, as well as the Great Charter, ought to be kept, observed, and maintained in full, and read in every county four times a year; neither had "been kept or observed heretofore, because no penalties were hitherto established for offenders against the points of the aforesaid charters"; in future, therefore, every county should elect "three good men, knights or others, loyal, wise, and discreet, who shall be sworn as justices and commissioned by the king's letters patent under his great seal" to hear and determine, without delay, complaints against those who violate the two charters, and even to punish the guilty "by imprisonment, ransom, or amercement."[1] As early as 27 March writs were sent ordering the elections to be made,[2] and on 10 May Edward invested the commissioners with the powers specified in the *Articuli.*[3]

**The "Articuli super Cartas"**

It seems improbable that these commissioners were of much use, for it was laid down, both in the *Articuli* and in the writ of 10 May, that they were not to hold pleas "in cases where aforetime remedy was provided by writ according to the common law." It was contrary to the king's wishes "that prejudice should be caused to the common law, or to the aforesaid charters in any of their points." The commissioners were thus forewarned that they would run grave risk of committing illegalities and displeasing the king if they tried to perform their duties. The *Articuli,* moreover, ended with the inevitable reser-

**The king still reserves his rights**

1. *Articuli super cartas* (Bémont, pp. 99 sqq.).

2. Blackstone, *op. cit.* p. lxx.

3. *Parl. Writs,* i, 398 sqq. These writs were addressed to commissions of three in thirty-six counties. They concern the enforcement both of Magna Carta and the Charter of the Forest, and of the Statute of Winchester for the conservation of the peace. Among these thirty-six counties appears Kent, where there was no forest.

vation: "In all and each of the aforesaid matters, it is the will and intention of the king and of his council and of all those present when this ordinance was made, that the right and lordship of the crown shall be entirely preserved."

**Perambulations of 1300**

It was in the same spirit of pettifogging resistance that, on 1 April of the same year, the king appointed six new commissions to make perambulations in eighteen counties. He still reserved the rights of the crown, and he ordered Hugh le Despenser and Robert de Clifford, the two justices of the Forest, to be present at the perambulations in their respective jurisdictions, or to send a deputy: it was his wish that all the foresters-in-fee and verderers should be summoned, and everybody who could help in ascertaining the truth.[1] The commissioners no doubt understood what the king expected of them. The juries, however, did not allow themselves to be intimidated: so at least we can infer from the report of the perambulation in Warwickshire, where the jurors declared that there was no forest in the county at the accession of Henry II, and that the forests had been made by John, to the injury of the landholders.[2]

**The king's attitude**

Edward was now reduced to the necessity of either accepting the result of these inquisitions, with the financial disasters that would follow, or running the risk of a complete breach with the opposition, now led with no little courage by Archbishop Winchelsey. Did the king really believe that he was being wronged, and that by his resistance he was upholding his rights? In this year 1300, after his recent experience of what had happened at the inquisitions, he was, we think, sincere. The assertions of the juries, it seemed to him, were based simply on "the

1. *Parl. Writs*, i, 397–8.
2. Perambulation of 29 June, 1300 (Turner, pp. 120–1).

common report of the country."[1] It is indeed evident that the imagination of the people, exasperated by the rigour of the forest administration, had given birth to legends. Unlikely misdeeds were attributed, for instance, to the wicked King John: the jurors of Somerset affirmed that he had "afforested the whole of England."[2] Was Edward, on the strength of traditions that were often doubtful, to surrender part of his heritage? Six centuries later, and filled with the philanthropic notions of to-day, we are apt to think that so great a king ought to have suppressed so evil a system, or at all events, to have loosened his grip and allowed the commissioners to confine the evil within narrow limits. But Edward kept in mind his coronation oath, the solemn pledge which he had given before God, that he would alienate neither the rights nor the property of the crown.

Such was his attitude of mind when on 26 September he summoned a parliament to meet at Lincoln on 20 January. In the writs of summons he stated that he needed the advice of his magnates and the commonalty of the realm, in order that he might take counsel on the reports of the commissions of disafforestment.[3] His intention was to transfer all responsibility to those who demanded the acceptance of the findings of the inquisition. Without doubt he was actuated simultaneously by a conscientious scruple and a secret hope that he might lead his subjects to think twice before taking action. But the magnates, asked to declare that by confirming the perambulations the king would not injure the crown or violate his oath, refused to reply on this point, and demanded immediate disafforestments. All the records

**Parliament of Lincoln, Jan., 1301**

1. Perambulation of 29 June, 1300: "Iurati quesiti qualiter constat eis quod predictus dominus Iohannes rex afforestaverit omnia maneria, villas et hameletta predicta, dicunt quod ex relatu antecessorum suorum et per commune dictum patrie" (Turner, p. 121).

2. ". . . quando afforestavit totam Angliam" (Turner, p. cii, n.).

3. *Parl. Writs*, i, 89. See the detailed account in Stubbs, *Const. Hist.*, ii, 156 sqq.

give the impression that the debate was very violent. Edward tried to indicate how seriously his dignity had been insulted by the "bill" of twelve articles which was addressed to him, and imprisoned the knight who had presented it: "those who brought us the bill from the Archbishop of Canterbury and from the others who unwarrantably importuned us at the Parliament of Lincoln," were the words he used in the writ ordering the imprisonment.[1] Nevertheless he gave way, confirmed the Charter of the Forest, together with Magna Carta,[2] and granted the request that he should issue letters patent ratifying the disafforestments suggested in the reports of the perambulations.[3] But he had already shown that only force would make him yield.[4]

**The king compelled to yield**

He waited till 1305 before freeing himself from engagements which in his eyes had no validity. He needed the support of the Holy See: and the election of the weak Clement V.[5] favoured his designs.

In 1305 Edward issued an Ordinance of the Forest, in which he did indeed recognise the disafforestments that had been carried out. But he was evidently in no gracious temper. He confirmed persons "put outside the Forest" in the right of being free from all "the things which the

**The Ordinance of 1305**

1. "Celi qui nous porta la bille de par l'ercevesqe de Cantebiris et de par les autres *qui nous presserent outraiousement* au parlement de Nichole." The document is quoted in Stubbs, *Const. Hist.*, ii. 158, n. 1. Cf. Rishanger, ed. Riley (R.S.), p. 198: "Rex . . . parliamentum tenuit Stamfordiae [*sic*], ad quod convenerunt comites et barones, cum equis et armis, eo, prout dicebatur, proposito, ut executionem Chartae de Foresta hactenus dilatam extorquerent ad plenum. Rex autem, eorum instantiam et importunitatem attendens, eorum voluntati in omnibus condescendit." See also *Flores Historiarum*, ed. Luard (R.S.), iii. 303.

2. Letters-patent of 14 Feb., 1301 (Bémont, p. 109).

3. Turner, p. cv, n. 3; Blackstone, *Magna Carta*, p. lxxii.

4. In letters-patent of 14 Oct., 1301, nominating commissioners to make a perambulation in the forests of Devon, Edward again inserted a reservation of the rights of the crown (*C.P.R.*, 1292–1301, p. 607).

5. Bertrand de Got, who became pope under this name, was archbishop of Bordeaux, and thus one of Edward's subjects. On his relations with Edward see W. W. Capes, *The English Church in the Fourteenth and Fifteenth Centuries*, pp. 38 sqq.

foresters demand of them," but denied to them, in their new state, the privilege "of having common within the bounds of the forests": finally he was resolved to keep all his demesne in "the state of free chase and of free warren," so that in practice the inhabitants of disafforested lands on the royal demesne gained next to nothing by the change.[1] At the same time he was pressing on his negotiations with Rome, and on 20 December the pope published the desired bull.

**Clement V's bull, 20 Dec., 1305**

In the preamble, Clement V. recalled the conspiracy formed in 1297, during the king's absence, to force him to make certain unjust concessions regarding "the forests and other rights which concerned the crown and the honour of his authority." The king's enemies had stirred up the people and sown scandal: he had been obliged to yield, and on his return he had again been forced, "by importunity and presumptuous instance," to renew his concessions. Now these tended to the injury of the royal prerogative, and the king's promises were incompatible with his pledge, given at his coronation, that he would defend the honour and rights of the crown. The pope therefore revoked and annulled the concessions absolutely, and forbade the English clergy to do anything contrary to this revocation. He added, however, that the rights of the English people should remain exactly as they had been before the concessions in question were extorted from the king.[2]

**Ordinance of the Forest, May, 1306**

A little later, in the Ordinance of the Forest of 27 May, 1306, the king on his part declared the disafforestments to be null and void: he had not granted them of his free will, and the sovereign pontiff had cancelled them.[3] At the same time, he obtained from the pope the suspension of Archbishop Winchelsey.

1. *Statutes*, i, 144. 2. Bémont, pp. 110 sqq.
3. *Statutes*, i, 149. The passage is quoted in Stubbs, *Const. Hist.*, ii, 162, n. 2.

In the same Ordinance of 1306, the king admitted that the misdeeds of the foresters had not ceased. "By the reports of our subjects and the frequent complaints of those oppressed, whereby our mind is sensibly moved and troubled, we have learned that the people of the realm are miserably oppressed by the officers of our forests." He declared that correct legal procedure was not observed; accusations were presented, not by the "good men" of the country, but by one or two foresters or verderers, and the innocent were condemned. He ordered that the regular procedure should be followed, that the juries of presentment should not consist of officials, and that oppressive and corrupt foresters should be punished.[1]

**The existence of abuses admitted by Edward**

Edward I recognised the evil and promised mere palliatives. The opposition had demanded a potent remedy in vain. Their long struggle seemed to have ended in defeat.[2]

The extravagant, unsystematic, and oppressive rule of Edward II and his favourites was naturally by no means beneficial to the inhabitants of the Forest. Gaveston regarded it merely as a field for profitable speculations in the leasing of land.[3] The question of the Forest was not raised again until the opposition took concerted action and imposed reforms on Edward. Then, as before, it was the barons who led the movement.[4] In the famous

**The question of disafforestment under Edward II**

1. *Statutes*, i, 147 sqq. There was no real jury of presentment for forest offences. See above, p. 163.

2. It has sometimes been questioned whether the disafforestments were really annulled. There is, however, no doubt of it. At the Parliament of 1316 the lords and commons asserted that the perambulations of Edward I had not been put into effect: "Perambulationes ille non sunt hiis diebus observate." (*Parl. Writs*, ii, pt. 2, 159).

3. By letters-patent of 11 Dec., 1310, he was authorised to enclose and let certain estates in the Forest (*C.P.R.*, 1307–13, p. 295).

4. There is nothing about the Forest in the eleven articles presented in 1309, which, as Stubbs says (*Const. Hist.*, ii. 339), represent in particular the wishes of the commons (*Rot. Parl.* i, 443 sqq.). Nothing more can be inferred than that the commons did not venture to touch upon the question of the Forest.

**The Ordinances of 1311**

Ordinances of 1311, the twenty-one bishops, earls and barons who drew them up denounced the illegalities committed by the forest officials, and tried to put an end to them. The authorised procedure for the punishment of criminals was, they said, continually violated by "the wardens of the forests on this side Trent and beyond, and by other ministers"; the innocent were condemned, and the people dared not complain: all the officials of the Forest were, therefore, suspended from their functions, and all complaints against them might be brought before commissioners, "good and loyal men," who should be empowered to hear and determine them before the following Easter: and guilty officers should be permanently removed from their posts. As for the future, the officials were ordered to act in strict conformity with the rules laid down in the Charter of the Forest and in the Ordinance of 1306. Nothing was said about perambulations, but it was ordered that the charter should be observed "in all points."[1]

**The king's resistance**

Edward II, of course, refused for some years to give effect to the Ordinances, which had been won from him by force. The "two French jurists" commissioned to prove their illegality, went so far as to affirm that "they were in almost all points contrary to the Great Charter and the Charter of the Forest, to which no prejudice might be done, because this would be contrary to the oath taken by the king at his coronation."[2]

One of those who urged the king to resistance was Hugh le Despenser the elder, who had been justice of the Forest under Edward I, and who had obtained from the pope the bull of 1305.[3] As a result of the parliament which sat from January to March, 1315, Hugh le

1. *Statutes*, i. 160-1; *Rot. Parl.*, i. 282-3.
2. See the text of the *Objections* in the *Annales Londinienses* (Chronicles of Edward I and Edward II, ed. Stubbs, i. 212).
3. See above, p. 223; and Stubbs, *Const. Hist.*, ii, 352, 355.

Despenser had to resign his seat on the council,[1] and Edward II, yielding to a request of the commons, made proclamation in every county that he proposed to enforce the Charter of the Forest and the findings of the perambulations, and that he had appointed commissioners to this end.[2] The king probably forgot his pledges, for various people refused to pay the twentieth granted by parliament in return for the promised reforms, declaring that the king should have had the Charters and Ordinances executed, besides instituting new perambulations, and that he had done none of these things.[3]

**The parliament of 1316**

Finally, at the parliament which was held in January, 1316, at Lincoln—a notable place in the history of the Forest—the opposition party among the nobles seized control of the government, and the work of disafforestment was resumed.

**Disafforestment entrusted to the Council**

It is proved by letters patent sent to the sheriffs on 20 February that the triumphant party had determined to put an end to the conflict, and to execute the promises of the Charter of 1217, though not to go beyond them. The prelates, earls, barons, and commons had declared that the perambulations of the time of Edward I had not been put into effect, and the king had agreed that they should be. Nevertheless, the royal council was to investigate the matter thoroughly.[4] The foresters-in-fee were summoned to give evidence. All official documents likely to furnish clear information were to be produced.

There was no intention of departing from the lines of policy laid down by Henry III and Edward I: neither

1. Stubbs, *Const. Hist.*, ii, p. 355.
2. The writ was dated 20 April, 1315 (*C.C.R.*, 1313–18, p. 224).
3. We know of this resistance to the tax from the royal protest of 8 June, 1315 (*C.P.R.*, 1313–17, p. 324).
4. It will be remembered that parliament had just given extraordinary powers to the council and had appointed as president Thomas of Lancaster, the leader of the opposition.

the forests in the royal demesne, nor those which existed before the reign of Henry II, were to be disafforested; and, if necessary, the results of the perambulations under Edward I were to be revised according to this principle. The final word would rest with the council: and every county court was to elect two knights, who within the fortnight after Easter should appear before the council, empowered to consent, on behalf of the community of the shire, to whatever the council might ordain regarding the limits of the Forest.[1]

**Lack of substantial results**

There is strong reason to doubt whether the delimitation of the forests was carried out in the way indicated by this writ, and whether the aristocratic government of Thomas of Lancaster fulfilled promises which the crown had succeeded in evading for a century. The first article of the second statute of Edward III, which enjoins the execution and completion of the perambulations made under Edward I, would have been differently worded if the bounds of the Forest had been definitively fixed by Edward II.[2] It seems certain that the indolent Thomas of Lancaster lacked the consistency of purpose necessary to carry out the laborious inquisition initiated by the writ of 1316,[3] that partial results were indeed attained,[4] but that the monarchical reaction of 1322 brought the process of disafforestment to a stand. Letters close, addressed in 1323 to Aymer of Valence, Earl of Pembroke, Justice of the Forest south of the Trent, ordered him to restore to the Forest all the woods of the royal demesne which

1. *Parl. Writs*, ii, pt. 2, pp. 158–9.

2. "Et qe la puralée qui estoit chivauché en temps le roi Edward, ael le roi q'or est, se tiegne en la forme q'ele estoit chivachée et bundée; e qe sur ceo soit chartre faite a chescun countée ou ele fust chivaché. Et par la ou ele ne feust my chivachée, le roi voet q'ele soit chivauché par bons et loialx e qe chartre sur ce soit faite come desus est dit" (*Statutes*, i. 255).

3. See the letters patent of 21 Nov., 1318, which show that the commissioners entrusted with the perambulation in Devonshire had done nothing (*C.P.R.*, 1317–21, p. 240).

4. It was officially stated, in letters patent of 1341 that the Forest of Dean was reduced by a quarter under Edward II (*C.P.R.*, 1340-43, pp. 190 sqq.).

had belonged to it at the date of the issue of the Charter, and which had been disafforested by the perambulations made during the reigns of Edward I and the present king.[1] We have here, it is true, the principle laid down in the writ of 1316, but effect was given only to the restrictions of this writ and not to its promise that all lands should be disafforested which ought to be. Edward was trying, in fact, by a revision of the concessions, to diminish their value.

**Policy of Isabella and Mortimer**

It is not surprising that after dethroning Edward II Isabella and Mortimer should have sought to make themselves popular by a complete change of policy. In the statute of 1327, to which reference was made above, they say nothing of any work that may have been accomplished by the council of 1316, and pass over in silence Edward I's repudiation of his promises. They declare that the Charter of the Forest is to be kept in all points; that the perambulations made under Edward I are to hold good, and that others are to be set on foot in counties where none have as yet been made; so that every county containing a forest is to have a charter declaring its limits.[2] Three years later, on 12 July, 1330, Edward III warned the Justice of the Forest south of the Trent not to allow regarders and verderers to charge with offences against the vert and the venison those who dwell in districts disafforested by the perambulations under Edward I and Edward II: these perambulations were to be strictly observed.[3]

1. The document is dated 18 March, 1323 (*C.C.R.*, 1318–1323, p. 634).

2. *Statutes*, i. 255, art. i, quoted above; cf. the letters patent of 13 March, 1327 (*C.P.R.*, 1327–30, p. 39) and the letters close of 10 May, 1327 (*C.C.R.*, 1327–30, p. 124). The inhabitants of Surrey demanded a perambulation: their request was granted, and on 26 Dec., 1327, Edward III entirely disafforested the county; afterwards, on 4 Aug., 1333, he went back on this concession and declared that there had been a mistake. His good faith cannot be questioned, since in 1300 the jurors had declared that the afforestments in this county were made before the reign of Henry II (*Select Pleas*, pp. 117–8; *Introd.*, p. cvi).

3. *C.C.R.*, 1330-33, p. 147.

We think, therefore, that if a precise date is to be assigned to the end of the long struggle for disafforestment, it is not the reign of Edward II, but the beginning of the reign of Edward III that must be chosen. In later times, notably in 1347 and during the first years of the reign of Richard II, the commons are found complaining because the royal officers "of their malice have afforested, and strive from day to day to afforest, what had been disafforested," and the king replies that he wishes the Charter to be respected.[1] Officially, as the records of these incidents prove, the dispute was settled.

**The question settled**

1. *Rot. Parl.*, ii, 169b, 388a; iii, 18a; cf. ii, 311b, 335a, 367b; iii, 62a, 116a. In 1376 the king even replied that he would order a "chivachiée," that is to say, a perambulation to fix the disputed boundaries.

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# SOME REMARKS ON THE ORIGIN OF THE PURLIEU.

**The purlieu**

Whatever date historians choose to mark the actual accomplishment of the disafforestments, they are generally agreed that from this time begins the institution of the *purlieu*—that is to say, the disafforested districts were subjected to a special code of law for the protection of the beasts of the Forest. The inhabitants of these districts might hunt only on certain conditions, and they were under the oversight of special officers called "rangers" (*rangiatores, rengiarii*).[1]

On this subject I wish to limit myself to two remarks: (1) The institution of the purlieu was not established at the time of the great disafforesting perambulations;[2] and (2) the laws of the purlieu were not, for the most part, peculiar to the disafforested districts of England.

**Articles 4 and 16 of Henry II's Assize**

The fourth and sixteenth articles of the Assize of Woodstock prove clearly that in the time of Henry II there already existed a sphere in which the king's venison had its "peace," but which was outside the Forest properly so called, where the vert also was protected by special laws and under the surveillance of the regarders. This sphere was under the oversight of foresters; and if the land did not form part of the royal demesne, the owner had to appoint a forester pledged by oath to pro-

1. See Manwood, *Treatise of the Lawes of the Forrest*, chap. 20.

2. We are speaking of the institution, the laws of the purlieu, not of the word itself, for this (under the forms poralée, pouralé, puralé) appears in the rolls of parliament as early as the fourteenth century. From this time *Poralée*, the French word for *perambulatio*—an inquisition for the delimitation of the Forest—acquired also the meaning of a disafforested region.

tect the king's beasts.[1] Article 16 prescribes a severe punishment—a year's imprisonment and fine at the king's mercy—for those who hunt by night, not only in the Forest, but also in those regions outside the Forest where the king's venison has its peace. The same penalty was imposed on whosoever should make "a *forstallatio*, living or dead, for the king's beasts, between his Forest and the woods or other places disafforested by him or his ancestors."[2] That is to say, it was unlawful to use obstacles or beaters on the borders of disafforested land to prevent game from taking refuge in what was left of the Forest.

In the time of Henry II, then, there were (1) lands outside, but of course near the Forest, where the king's beasts had their "peace" and where poaching by night was as severely punished as when it was practised in the Forest; (2) disafforested lands, adjoining the Forest, where it was permissible to hunt by day, but where it was contrary to law to hinder beasts that were making for the shelter of the Forest.

Nothing more is known. We cannot say whether the first class of protected lands was the outcome of disafforestment, or whether it had been instituted round certain forests to prevent the destruction of game that wandered beyond their limits. In any case, however, it is evident that the twelfth century kings strove to maintain control over lands adjoining the Forest; and that two of the rules afterwards imposed on the inhabitants of the purlieu—those against hunting at night and

1. "Et illi qui extra metas reguardi boscos habeant in quibus venatio domini regis pacem habet, nullum forestarium habeant, nisi assisam domini regis iuraverint et pacem venationis suae, et custodem aliquem ad boscum eius custodiendum" (*Sel. Charters*, p. 187, art. 4).

2. "Item rex praecipit quod nullus de cetero chaceat ullo modo ad capiendas feras per noctem infra forestam neque extra, ubicunque ferae suae frequentant vel pacem habent aut habere consueverunt, sub pœna imprisonamenti unius anni et faciendo finem et redemptionem ad voluntatem suam, et quod nullus sub eadem poena faciat aliquam forstallationem feris suis vivam vel mortuam inter forestam suam et boscos vel alia loca per ipsum vel progenitores suos deafforestatos" (Art. 16: *Sel. Charters*, p. 188).

**The right of the chase in lands disafforested during the 13th century**

hindering the game from entering the Forest—were already in existence under Henry II.[1] It might be thought that the kings of the thirteenth century, who carried out or promised much disafforestment, would have quickly completed the system which had already been outlined. This, however, was not the case. It seems that two opinions were held, one assigning the right of free chase to the inhabitants of disafforested regions, the other giving to the king the power of disposing as he would of all game found in them: and the kings halted between them. John seems to have acted on no fixed principle. In his charters of disafforestment he sometimes stipulated that the inhabitants of the disafforested country might hunt every kind of game on it, sometimes he said nothing on the point.[2] Henry III made warrens on disafforested land for the benefit of his favourites, and in 1258 the barons protested, asserting the principle that the chase was free in disafforested country.[3] Even Edward I, with his zeal for making laws, established no rules for the purlieu, doubtless because he always had the secret intention of taking back the disafforested lands. In his ordinance of 1305 he confirmed the principle that persons "put outside the Forest" ought to be free from all "the things which the foresters demand of them," and in regard to the venison, he merely specified that he intended to reserve for himself all the hunting in lands which were part of the royal demesne.[4]

**Edward I did not establish the purlieu**

1. On these rules see Manwood, *loc. cit.*, and Fisher, *Forest of Essex*, p. 167.

2. See the authorities cited above, p. 155, n. 5.

3. See the petition of the barons at the parliament of Oxford, art. 9: "Item petunt remedium quod forestae deafforestatae (*sic*) per cartam regis et per fidem eidem per communitatem totius regni factam, ita quod quisque ubique possit libere fugare, dominus rex de voluntate sua pluribus dedit de predicta libertate warennas, quae sunt ad nocumentum praedictae libertatis concessae" (*Sel. Charters*, p. 374).

4. *Statutes*, i, 144.

**Measures of 1316 to keep the game in the Forest**

The measures taken by Edward II's council, when they wished to carry out the disafforestments, seem equally to prove that at this time there was no intention of establishing in the disafforested districts any extraordinary jurisdiction to protect the king's venison. The ancient Assize of Woodstock, which they need only have applied to the new situation, was apparently forgotten. Only one method of ensuring the peace of the game seems to have been thought of—namely, to get it back into the Forest. By two writs of 5 August 1316, the king ordered the Justice of the Forest south of the Trent to drive the game of the disafforested regions into the Forest within forty days, and reserved to himself, during this time, the right of hunting in the aforesaid districts.[1]

**Possible origin of the rangers**

It was no doubt hoped that when once restored to the Forest the game might be kept there, and it was perhaps now that with this end in view the authorities began to appoint, in certain forests, a special class of foresters called *rangiatores*.[2] Naturally, however, it was impossible to prevent the game from straying, and the forest officials soon took to prosecuting those who hunted beasts that had wandered into the purlieu. In 1372, 1376 and 1377 parliament protested, and demanded "that every man might hunt in the purlieu without hindrance." The king each time replied that the Charter of the Forest should be observed, an answer which meant nothing, since the charter made

1. *C.P.R.*, 1313–17, p. 532; cf. the letters of Edward III (26 Dec., 1327) cited by Manwood (chap. 20).

2. In the seventeenth century the ranger undertook in his oath to drive back to the Forest all beasts which left it for the purlieu (*Book of Oaths*, 1649, cited by Fisher, *Forest of Essex*, p. 166). Mr. Turner quotes a document of the twelfth year of Edward III where mention is made of a person "nuper rengiarius" of the Forest of Braden (*Select Pleas*, p. xxv, n. 3). He states, however, that he has rarely found references to rangers in the fourteenth century. Mr. Fisher has discovered none in Essex before 1489. Manwood (chap. 20, § 13) gives no precise information about the institution of these officers.

no provision for such cases.[1] All these incidents show that the kings of the fourteenth century were anxious to secure their venison from any harm with which the disafforestments might threaten it, but they also show that no fixed rules and no administrative system had as yet been set up for the purlieu.

**The rules of the purlieu not peculiar to England**

Gradually fixed rules arose: but they were neither peculiar to the purlieu nor new. As we have seen, the laws against hunting by night and *forstallatio* are already to be found in the Assize of Woodstock. In order to enjoy the right of the chase, the inhabitants of the purlieu had to possess no other qualifications than those demanded by the Ordinance of Richard II from every sportsman in the country.[2] Moreover, the restrictions placed on their hunting were no more severe than those which had to be observed in France by the lords of lands adjacent to royal forests: they were even less so. In France, no one might hunt deer or other large game within a tract two leagues[3] broad around the royal forests,[4] and in some districts the woods in this zone might not be sold except by permission of the king.[5]

In a word, then, the institution of the purlieu was established in England at the very end of the Middle Ages, but the germs of it already existed before the

1. *Rot. Parl.*, ii, 313, 368; iii, 18.
2. See below, pp. 247 sqq.
3. Cf. the *distancia duarum leucarum* in the passage cited above, p. 190, n. 3.
4. See in the *Ordonnances*, v, 210 sqq., a very interesting dispute concerning the hunting-rights of the bishop of Albi, whose sport had been interfered with by the king's officers in forests "a Forestis regis per duas leucas vel circa distancium." In 1368 the Master of Waters and Forests for the sénéchausée of Toulouse confirmed the hunting-rights of the bishop in these forests, and authorised him, for special reasons, to hunt in a forest which he possessed within a distance of two leagues from the royal Forest. Cf. the great "Ordonnance des Eaux et Forêts" issued by Louis XIV in 1669, titre xxx, art. 14.
5. In 1232 the *bailli* of the Gâtinais held an inquisition to discover whether "boscus Brissi, qui distat a foresta domini regis per unam leucam vel circiter, qui est domini Brixiacensis . . . potest vendi sine licentia domini regis." (The document is published by L. Delisle: *Historiens de France*, xxiv, pt. i, p. 298*, no. 98).

thirteenth century, and the kings of France, on their side, had instituted a sort of purlieu around their forests.

**Theory of the French origin of the purlieu**

It seems possible that the English purlieu and the analogous institution in France had a common origin in a Norman custom. According to a petition addressed to Lous IX. by Henri d'Avaugour, Philip Augustus had confiscated a *haie*,[1] situated in the *bailliage* of Verneuil, because in this *haie* the huntsmen of the Lord of Laigle had hunted game which had come from the royal forest of Evreux, even following it into the forest. The confiscation had been made on the report of the king's huntsman, Roger de Bémécourt, a Norman knight.[2] Philip Augustus no doubt had precedents for his action: and it is not unreasonable to suppose that the powerful dukes of Normandy had created round their forests a protected zone, and that the rules on this subject in the Assize of Woodstock date from a time before the Conquest. Perhaps, indeed, they were known as far back as the Carolingian period.[3]

1. A *haie* was an enclosed hunting-preserve [corresponding, therefore, to the English "park"] It appears that this particular *haie* was not entirely enclosed.

2. *Querimonia Henrici de Avaugor* (A.D. 1247), in *Historiens de France*, xxiv, pt. ii, p. 730.

3. See the charter of 26 March, 800, by which Charles the Great allows the abbot and monks of St. Bertin to send their men to hunt in the abbey woods, "in eorum proprias silvas," in order to provide the house with skins and leather, on condition, however, that the forests of the king be respected: "salvas forestes nostras, quas ad opus nostrum constitutas habemus" (*Monum. Germ., Diplom. Karolin.*, vol. i, p. 256, no. 191). It was perhaps because their woods were near a royal forest that the monks of St. Bertin needed this special permission.

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## THE DECLINE OF THE FOREST. CONTRARY DEVELOPMENT IN FRANCE.

We cannot undertake to pursue further the history of the English Forest,[1] and shall be content with explaining, in a few words, why it ceases henceforth to be connected with the history of the constitution. There are no printed judicial records to serve as authorities for this concluding chapter. The rolls of parliament, the collections of writs and statutes, the numerous and valuable calendars of the patent and close rolls, cannot supply those characteristic and vivid details which are essential to a picture of the actual effects of legislation and of the working of the administrative system. They enable us, however, to form consistent and fairly definite conclusions of a general nature.

**Lack of evidence**

It will not be until all the extant " perambulations " of the reigns of the three Edwards have been published, that historians will be able to determine, even approximately, within what limits the forest law was subsequently administered. In the present lack of printed evidence, we can only say that the forest law remained in force throughout the fourteenth century—not infrequently with the distortions and abuses that had disgraced it during the previous two hundred years—though in some respects its severity was diminished.

State records prove that the administrative machinery remained almost exactly as before. The chapters of the

1. Elaborate researches among original records would be necessary for the accomplishment of this task. Many unpublished documents concerning the Forest in the 14th and 15th centuries are no doubt in existence. It is remarkable, however, that Mr. Fisher was unable to find any forest pleas for Essex between 1324 and 1489 (*Forest of Essex*, p. 89).

**Maintenance of the administrative and judicial machinery**

regard were in essentials identical with those of the thirteenth century.[1] We have numerous writs concerning the judicial eyres, and the handing over of offenders to their twelve "mainpernors," who must undertake to produce them on the appointed day before the itinerant justices.[2]

The king's writs make continual reference to the Assize of the Forest, along with the Charter of 1217, and all offences against the assize were punished. Royal justice did not spare even the archbishop of York.[3]

Up to the end of the century there were loud complaints against the foresters. At a time when the government was short of money and oppressive, it was natural that the foresters should have the same evil reputation as the sheriffs and escheators. Printed records being rare, we have few details as to their exactions. Some echoes of popular grievances reach us through the petitions of the commons in parliament.[4] The people did not venture to complain of the forest system itself, and they showed unusual boldness when in 1372 they pointed out that the game destroyed crops and pastures and forced the peasants to abandon certain villages.[5] They likewise feared that complaints against the officials would prove useless or injurious to themselves.[6] There was probably much

**Continuance of abuses**

**Complaints in Parliament**

1. See in the *Calendars of Close Rolls* the writs ordering the holding of the regards before the arrival of the justices; e.g., *C.C.R.*, 1307–1313, pp. 174–5, where the *capitula* are all quoted. 2. *C.C.R., passim.*

3. A park held by the archbishop in Sherwood Forest was confiscated by reason of an offence against the Assize of the Forest. On 14 Feb., 1355, the king pardoned him, and ordered Ralph de Neville, justice of the Forest south of the Trent, to restore the park. Ralph de Neville ignored the command, and on 20 Nov., 1356, the king had to repeat it, mentioning that the archbishop [Thoresby] was his chancellor (*C.C.R.*, 1354-60, pp. 113, 288).

4. Protests from important men are rare; the complaint of the bishop of Salisbury, who at the parliament of 1325 asserted that his "free chase" had been confiscated, is an exceptional case (*Rot. Parl.*, i, 440*b*).

5. *Ibid.*, ii, 313*a*. 6. *Ibid.*, iii, 18*a* (A.D. 1377).

oppression. The officers of the Forest punished people for offences committed outside the limits fixed by the perambulations.[1] The innocent were unjustly condemned, without regular inquisition, and by means of false witnesses.[2] William de Claydon, Justice of the Forest in the days of Edward II, threw people into prison and otherwise maltreated them, sometimes forcing them to accuse "certain who were in no wise guilty."[3] Other officers, to secure a conviction, would bring forward strangers who knew nothing of the matter.[4] Notwithstanding the Charter, inhabitants of the Forest were summoned to the swanimotes, and fined if they failed to appear.[5] The foresters demanded contributions to which they had no claim.[6] Sometimes the chancery refused to issue writs against officers who were violating the Charter of the Forest.[7]

Edward III and Richard II repeatedly showed a desire to protect their subjects against such abuses.

**Intervention by the kings**

They ordered inquisitions,[8] and issued minute reminders of the correct procedure for the punishment of forest offenders.[9] In the statute which provided safeguards against purveyors, Edward III also ordered the foresters to content themselves with the levies "due according to ancient

1. *Rot. Parl.*, ii, 311*b*, 335*a*, 367*b*; iii, 62*a*, 116*a* (A.D. 1376, 1377, 1379, 1381).

2. "Pur ceo qe plusours gentz sount desheritez, reintz et destruz par les sovereins gardeins de forestes de cea Trente et de la, et par les autres ministres, encountre la fourme de la chartre de la Foreste . . . ." (First statute of Edw. III, art. 8: *Statutes*, i. 254). Cf. *Rot. Parl.*, iii. 164*b* (A.D. 1383).

3. *Rot. Parl.*, ii, 10*a*; cf. p. 380*b*.

4. *Ibid.*, ii, 169*b* (A.D. 1347).

5. *Ibid.*, iii, 18*a* (A.D. 1377).

6. *Ibid.*, ii, 24 (A.D. 1328) and 239*b* (A.D. 1351–2).

7. *Ibid.*, ii, 203*b*. The records of the inquisitions (*P.R.O., Forest Proceedings, Treasury of Receipts*) would no doubt furnish many instances of the crimes and exactions of the foresters. See the inquisition of 1369 published in Turner, p. xlix.

8. *C.C.R.*, 1343–6, p. 257.

9. In 1327 Edward III set forth in detail all the rules of procedure (*Statutes*, i. 254, art. 8). In 1383 Richard II forbade forest officials to put any pressure on juries to make them accuse the innocent, to imprison anyone "without due indictment," or to impose fines contrary to the Assize of the Forest. (*Ibid.*, ii. 32.) As was pointed out above (p. 163) there was no jury for forest offences in the 13th century.

law."[1] Like their brethren in France, the kings of England saw clearly that it was their interest to defend their subjects against the exactions of officials, even when these sprang from an excess of zeal in the service of the crown. In the fourteenth century, as before, they knew quite well that they had many unscrupulous foresters who pocketed arbitrary amercements and sold wood without accounting for it.[2]

**Inadequate repression of abuses**

But it was hard for a fourteenth century ruler to secure the obedience of his officers, and to check or even to discover their extortions. Matters were still worse when the throne was occupied by an incapable king like Edward II, or by an extravagant and pleasure-loving warrior like Edward III: as for Richard II, it is scarcely necessary to mention that he succeeded to the crown as a child, at a time when the authority of the government was weak and discredited. It is, therefore, very probable that the suppression of abuses committed by the foresters was of a mild and ineffectual nature.

**The Forest no longer a national grievance**

In the fourteenth century, nevertheless, the Forest was no longer one of the chief grievances of the nation. It is remarkable that, with the exception of Essex, the counties most profoundly affected by the revolt of 1381 were precisely those where no forest existed: and in Essex itself, the forest law seems to have had as little to do with the rising as elsewhere. The peasants demanded the abolition of hunting privileges, but not the abolition of prosecutions for assart, purpresture, and waste, though these were an essential feature of the forest code in England. Their attitude is very significant.

1. *Statutes*, i, 321, ch. 7 (25 Edw. III); Thomson, *Magna Carta*, p. 356.
2. It is significant that in an act of amnesty, of which we shall speak below, Edward III expressly excludes from the operation of its benefits the justices; head wardens; wardens of forests, parks, and chases; foresters; verderers; regarders; agisters; deputy-wardens; underforesters; and sellers of wood. (*Statutes*, i, 392, ch. 4).

In the present state of knowledge, it is difficult to say with certainty to what extent the position of the inhabitants of the Forest had improved. It is clear, however, that the severity of the forest law had been considerably relaxed. In all replies to petitions concerning the Forest, the king repeats that he means to follow the Charter of 1217. The trees were no longer regarded as sacred: at his accession Edward III gave permission to landowners to take from their woods within the Forest whatever they needed for their houses or fences.[1] The well-being of the population was set above the preservation of cover for the game: and this alone was a revolutionary change. Moreover, a very welcome alteration was gradually made in the method of conducting inquisitions. In the thirteenth century, when a trespass against the venison was discovered, the inquisition, as we have seen, had to be conducted by the four nearest townships, and they were collectively amerced if they failed to supply satisfactory information. By the end of the reign of Henry III this oppressive system was beginning to fall into disuse, and its place was taken by general inquisitions, which were concerned with all offences, against both the venison and the vert, recently committed in the Forest. The Ordinance of 1306 established them on a firm footing, and in the fourteenth century they occurred very frequently, sometimes even twice in one year.[2] Mr. Turner has published, as an example, the record of a general inquisition of 1369 "on the state of the Forest of Rutland." It was

**Modification of the forest law**

1. "Item qe chescun homme qi eit boys deinz forest, poet prendre en son boys demeigne housbote et heybote sanz estre attaché par ministres de la foreste, issint q'ils le face [sic] par veue de forester." (*Statutes*, i, 255, chap. 2). Compare the corresponding article of the *Consuetudines et Assise de Foresta*, published forty or fifty years before: "Liberacio housbote et haibote fiat prout boscus pati potest in statu quo est, et non ad exigenciam petentis" (*ibid.*, p. 243).

2. See the tables drawn up by Mr. Turner, p. xlvii. It should be noted that the regards, which dealt with other offences than the destruction of game, continued to be held, as is proved by the close rolls of Edward II and Edward III.

conducted by the deputy-justice of the Forest south of the Trent: and the deputy-warden of the Forest of Rutland, six foresters, two verderers, twelve regarders, twelve freeholders of the Forest, and twelve freeholders from outside, appeared as jurors.[1] The authorities, then, had abandoned the special inquisition on injuries done to the game, which was in reality a means of raising money. Furthermore, trespasses against the vert and venison were leniently treated by the king: a statute of the forty-third year of Edward III granted indemnity to all private individuals who were guilty of such offences.[2]

**Decay of the forest system**

In the fifteenth century, thanks at first to the policy of the Lancastrian kings,[3] and afterwards to the anarchy which almost suspended the operation of the forest law, the forest system became weaker and weaker. The rolls of parliament no longer contain complaints against the Forest. According to English legal authorities, however, it was during the second half of the sixteenth century that the decline of the system became most rapid. The pleasure of the chase, declared the attorney-general of Charles I in 1628, "being not so much esteemed by the late King Edward the Sixt (by reason of his minoritie), and by the two succeeding Queenes (by reason of their sexe), the lesse care of the due execucion of the forest laws consequentlie ensued, and the keeping of the Courts of Swainmote and Justice Seate became almost totallie neglected

1. Turner, p. xlix.

2. *Statutes*, i, 392. It is, however, stated that the commons had demanded this amnesty, and that the king was rewarding them for the assistance they had so often given him.

3. Pierre de Fenin's Chronicle (ed. Mlle. Dupont, *Soc. d'Hist. de France*, 1837, p. 187) contains a curious passage concerning the pity felt by Henry V—in France, at any rate—for the people who were oppressed by the owners of warrens: "Le povre peuple l'amoit sur tous autres; car il estoit tout conclu de preserver le menu peuple contre les gentis hommes des grans intortions qu'ilz faisoient en France et en Picardie et par tout le royaume: et par especial n'eust plus souffert qu'ilz eussent gouverné leurs chevaulx, chiens, et oyseaulx sur le clergié ne sur le menu peuple, comme ils avoient a coustume de faire; qui estoit chose assés raisonnable au roy Henry de ce vouloir faire, et dont il avoit et eust eu la grace et priaire du clergié et povre peuple."

and disused."[1] A large amount of forest land was at this time enclosed without authority.[2] When, under Elizabeth, John Manwood took up his pen to write the "Treatise and Discourse of the Lawes of the Forrest," it was in the hope of reviving laws of which "verie little or nothing" remained.[3] James I and Charles I tried to recall them to life, and the famous Justice Finch even demanded that the perambulations of Edward I should be revoked.[4] But the Great Rebellion prevented the realisation of such worthy ambitions.[5]

**Lamentations of Manwood**

The restraints which in the twelfth and thirteenth centuries had pressed so heavily on so many English peasants had, in short, largely disappeared at the end of the Middle Ages. It was no longer a crime for a landholder to cut down a branch or clear a piece of the Forest which belonged to him. But it must not be inferred that everyone was free to take the game: and a sketch of the development of the English game-laws will perhaps not be without interest.

**Lenient treatment of trespasses against the vert**

During the fourteenth century the venison was still eagerly coveted. Whenever circumstances were favourable, organised poaching on a grand scale became prevalent, and the foresters themselves were not the least guilty. When the lands of Thomas of Lancaster were seized by Edward II, the great forest of

**Origin of the game-laws. The right of the chase eagerly coveted**

1. Cited by Fisher, *op. cit.*, pp. 294–5.
2. *Ibid.*, pp. 323 sqq.
3. "... Seeing that so many do daily so contemptuously commit such heynous spoiles and trespasses therein, that the greatest part of them are spoiled and decayed, and also that verie little, or nothing, as yet is extant concerning the lawes of the Forrest..." (Ed. 1598, dedication to Lord Howard, Justice of the Forests).
4. S. R. Gardiner, *Hist. of England, 1603-1642*, vii, 362 sqq. Cf. J. Nisbet, *Hist. of the Forest of Dean, Eng. Hist. Rev.*, 1906, p. 449.
5. Interesting details concerning the Forest in modern times will be found in Mr. Fisher's book. See also J. Nisbet and G. W. Lascelles, *Forestry and the New Forest*, in the *Victoria County History of Hampshire*, ii, 428 sqq.

Pickering[1] was the scene of hunts arranged by the inhabitants and the foresters.[2] At the beginning of the Hundred Years' War Edward III had scarcely sailed for France when a general attack was made on the game in the forests, parks, and chases belonging to the crown.[3]

**Demand for the abolition of game-preserves**

At the end of the Middle Ages, however, the question of hunting-rights had changed its character. The two parties to the controversy were no longer the king and the baronage. On the one side were the king, the barons, and the wealthy landowners who owned warrens; on the other, the peasants, artisans, and lower clergy. These classes wished for permission to hunt and fish on Sundays, partly for the sport, partly to supplement their incomes. It infuriated them to see the multiplication of warrens swarming with game, to the damage of the crops and the exclusive advantage of the rich and their servants. The whole of the royal demesne was treated as warren. In disafforested districts, many estates where game was plentiful had been made warrens for the benefit of one or two people. The regions where all might hunt doubtless consisted of little save fields and moors where neither fur nor feather was to be found. The rebels of 1381 insisted that hunting and fishing should be made entirely free. Assembled at Smithfield,

**Claims of Wat Tyler**

they demanded from the king by their spokesman, Wat Tyler, "that all warrens, as well in fisheries as in parks and woods, should be common to all; so that throughout the realm, in the waters, ponds, fisheries, woods, and forests, poor as well as rich might take the venison and hunt the hare

1. The Forest of Pickering in Yorkshire, and the forests of Lancashire, were held by the earls of Lancaster, who, by an exceptional privilege, enforced all the forest laws for their own advantage (Turner, p. ix).

2. Letters close of 22 Aug., 1323 (*C.C.R.*, 1323–7, pp. 15-16).

3. Letters close of 26 July, 1339 (*C.C.R.*, 1339–41, p. 258). See the inquisitions published by Greswell, *op. cit.* pp. 104–9. The clergy were still conspicuous among the poachers. Cf. what Chaucer says of the sporting monk in the prologue of the Canterbury Tales.

in the fields." Richard hesitated, and if we are to believe the continuator of Knighton,[1] it was then that Tyler seized the bridle of his horse and was slain by the king's followers.

**The Parliament of 1390 opposed to popular demands**

During the disturbed years which followed the rising, the lower classes acted on the principle for which their leader had suffered. In a petition of the parliament of 1390 it was stated that "artificers and labourers, that is to say, butchers, sewers, tailors, and other varlets, keep greyhounds and other dogs, and on festivals, at times when good Christians are in church hearing divine service, they go hunting in the parks, rabbit-preserves, and warrens of lords and others, and ruin them utterly." The commons proceeded to declare that "under colour of such chases," these wicked people encourage one another in the deplorable spirit of revolt, the effects of which have been seen, holding "at these times their meetings for debate, covin, and conspiracy, in order to stir up riot and sedition against your Majesty and the laws." To prevent a social upheaval, it was obviously necessary to bestow special hunting-rights on landed proprietors and the rich: "May it please the king to ordain in this present parliament, that no kind of artificer, labourer, or any other who does not possess lands or tenements to the value of forty shillings a year, or any priest or clerk, if he has not a preferment worth ten pounds, shall keep any greyhound or other dog, unless he be bound or led, hobbled or lawed, on pain of imprisonment for a year; and that every justice of the peace shall have power of enquiry and to punish all offenders."[2] "Le roi le veut," was the answer; and a statute was issued forbidding, on pain of a year's imprisonment, every

**The Statute of Richard II**

1. Knighton, *Chronicle*, ed. Lumby (R.S.), ii. 137. Cf. the letters-patent of 12 May, 1381 (*C.P.R.*, 1377–81, p. 634).
2. *Rot. Parl.*, iii, 273, cap. 58.

layman who did not possess landed property worth forty shillings a year, and every clerk with an annual income of less than ten pounds, to keep hunting-dogs or to use ferrets or any snares whatsoever to catch deer, hares, rabbits, or any other game. This, said the statute, was "the sport of the gentle."[1]

The crown, then, resisted the encroachments of the people by establishing special privileges in favour of certain classes of society. Exactly the same course was adopted in France. Seven years later, the statute of Richard II was followed by an ordinance of Charles VI conceived in the same spirit.[2] The same motives were alleged on both sides. The artisan must stick to his craft and the peasant to his plough, or else order would vanish.[3] The only difference was that in France the privilege of the chase was limited to the nobility, whereas in England it was conferred on all who held a moderate amount of landed property. The game-laws, as is usually the case, were symbolical of the state of society.[4]

**The struggle for the right of the chase in the 15th and 16th centuries**

In the fifteenth and sixteenth centuries the struggle between the privileged and the poachers continued. In 1417, when Henry V was engaged in the conquest of Normandy, parliament complained that armed bands were laying waste the chases of the lords, beating and wounding the keepers.[5] During the Wars of the Roses, disguised and masked brigands stole the

1. *Statutes* ii, 65, cap. 13.

2. Ordinance of 10 Jan., 1397 (*Recueil des Ordonnances*, viii, 117 sqq.): ". . . . Lesdits non nobles, en faisant ce que dit est, delaissent a faire leurs labourages ou marchandises, et commettent plusieurs larrecins de grosses bestes et de connins, etc. . . . ." Falling into idleness, they "deviennent larrons, murtriers, espieurs de chemins."

3. This theory was put forward again, in the 17th and 18th centuries, by French and English legal writers. Cf. Blackstone, *Commentaries*, bk. ii, c. 27; and Pothier, *Traité du droit de domaine et de propriété*, pt. I, ch. ii, art. 28.

4. In Germany also, at the end of the Middle Ages, the nobles claimed that they alone had the right to hunt. See A. Schwappach, *Grundriss der Forst-und Jagdgeschichte Deutschlands*, p. 52.

5. *Rot. Parl.*, iv, 113–4.

deer and committed murders in the forests and game-preserves.[1] In the sixteenth century Henry VIII ordained savage punishments for poachers; and for some years the death-penalty appears again in the forest law.[2] It was a time when hunting-parties on a magnificent scale were arranged by the king and nobility.

**Victory of the landed aristocracy**

As the rural aristocracy grew in power, they gradually threw off all restrictions on their right to hunt on their own estates. When, in the eighteenth century, Blackstone wrote his Commentaries on English Law, he conscientiously stated the theory that the king, by virtue of his prerogative, had exclusive hunting-rights over his whole realm, no subject having the right to hunt without the express permission of the king: but he himself confesses that "this exclusive prerogative of the king is little known or considered."[3] As a matter of fact, the right of the chase was exercised by every landowner on his manor.

**Inverse process in France**

In France, at the same period, the theory of the royal prerogative had triumphed. There the history of the English Forest had been exactly inverted. In France, during the collapse of the Carolingian Empire, the royal Forest, like other prerogatives of the crown, had been dismembered and seized by the nobles, and up to the thirteenth century, the king enjoyed no peculiar privileges in regard to the chase. He acquired one by constituting himself the protector of the weak, not only against his own officials, but also against the owners of warrens. After the accession of St. Louis, the Parlement was rigidly opposed to any extension of the warrens, which were ruining agriculture, and suppressed even royal warrens if they were of recent date. In the course of the thirteenth and fourteenth centuries, the

**Growth of the royal prerogative in France**

1. Statute of 1 Henry VII (*Statutes*, ii, 505).
2. Statute of 1539, art. 5 (*Statutes*, iii, 731).
3. *Commentaries*, ii, c. 27.

principle was established that a warren was legal only if it was very ancient, and that the king alone might authorise the creation of new ones. Moreover, the extensive rights which the monarchy now claimed in this sphere, were used not only to protect agriculture against the mania of the nobles for sport, but also, as we have seen, to take away the hunting-rights of the common people.

**The situation at the end of the 14th century**

Towards the end of the fourteenth century, at the time when Richard II and Charles VI published their ordinances restricting the chase to the nobility, the growing rights of the king of France and the declining rights of the king of England met, so to speak, and stood side by side at the same height. In the fifteenth century, the monarchy became considerably weaker in England, while Charles VII and Louis XI revived and strengthened it in France. In questions of the chase, Louis XI maintained his prerogative with particular severity. With him, hunting definitively became a royal sport, and no one might hunt save by royal favour. In France after his reign, and in England after the accession of the Tudors, the two opposite movements did not continue regularly. In England Henry VIII was a despot and a keen sportsman, and James I and Charles I tried to restore the Forest to its former state: while in France the anarchy of the sixteenth century afforded an opening to the pretensions of the nobles. Eventually, however, the two processes ended as might have been anticipated from the political experiences of the two nations. While in England the landed aristocracy acquired the right of the chase, in France the king seized it to his exclusive advantage. He allowed the nobles to hunt: but merely for his own pleasure, and at the cost of untold sufferings on the part of the peasantry, he established vast "capi-

**Louis XI**

**Effect of political changes**

**The "capitaineries"**

taineries" which in many respects recall the English Forest of the Middle Ages. On the eve of the French Revolution, the damage done to cultivation by the king's game and huntsmen was one of the causes of the exasperation of the peasantry, and it is from the English traveller Young that we have the most vigorous description of the distress and indignation caused by the king's hunting-rights. It might almost be said that the institution of the Forest, born among the Franks and transported to England, had afterwards returned from England to France. In both countries it was one of the most odious fruits of arbitrary power.

**Exasperation of the French peasantry**

# CAUSES AND GENERAL CHARACTERISTICS OF THE RISING OF 1381.

STUBBS' account of the rising of 1381 has been more completely superseded than any other part of his second volume. An entirely new light has been thrown on the history of the rebellion and its causes by researches in English records, particularly the judicial and financial collections of the Record Office. The pioneer in this work was a Frenchman, André Réville. This young scholar, who died in 1894 at the age of twenty-seven, presented, in 1890, to the examiners of *l'Ecole des Chartes* a dissertation on the rebellion in Hertfordshire, Suffolk, and Norfolk. To the end of his life he continued his elaborate researches in preparation of the general work in which he hoped to describe the causes and the various aspects of the movement. Two years after the death of Réville, Mr. Edgar Powell published a little book on the rebellion in Cambridgeshire, Suffolk, and Norfolk,[1] and in 1897 an American student of the University of Leipsic, Mr. T. W. Page, wrote an essay on the commutation of the labour services, and refuted the theory of Rogers concerning the causes of the rising of 1381.[2] Réville's manuscripts were entrusted to me, and on them I based a volume which appeared in 1898, and which still remains the most valuable source of information on the rising as a whole.[3] But I cannot be satisfied with merely

1. *The Rising in East Anglia in 1381*, with an Appendix containing the Suffolk Poll Tax Lists for that year.

2. *Die Umwandlung der Frohndienste in Geldrenten in den œstlichen, mittleren und südlichen Graftschaften Englands* (1897). I did not know of Mr. Page's essay in time to make use of it in my work of 1898. [Mr. Page subsequently published an English edition of his study: *The End of Villainage in England* (New York, 1900). Cf. *Eng. Hist. Rev.*, xv, 774.]

3. *Le Soulèvement des Travailleurs d'Angleterre en 1381*, by Andre Réville. Studies and Documents published with a preface and an historical introduction by Ch. Petit-Dutaillis.

referring my readers to this work. In the first place, the book is out of print, and moreover in the last fifteen years fresh documents have been discovered, and certain parts of the subject investigated more thoroughly.

A chronicle of intense interest, which was used by the Elizabethan historian, Stow,[1] and which I had known only through the somewhat unsatisfactory medium of this writer, has been found at the British Museum and edited by Mr. G. M. Trevelyan.[2] This account of the rebellion, written in French very shortly after the tragic events in London, contains exceedingly precise and, in the main, trustworthy information. In addition Mr. Trevelyan has published with Mr. Powell a number of documents hitherto unedited,[3] and has devoted to the rising of 1381 a chapter in his striking work on England in the time of Wycliffe.[4] Mr. G. Kriehn has examined the sources and certain details of the subject in an article which seemed to foreshadow a more elaborate publication.[5] A book by Mr. Oman, put together somewhat hastily, uses most of the works which we have just mentioned, and contains some interesting remarks on the collection of the Poll Tax.[6]

The causes of the rising have been made clearer by monographs or articles on the fourteenth century

1. See my *Preface* to Réville's work, pp. xii sqq.

2. *An Account of the Rising of 1381* in *Eng. Hist. Rev.*, 1898, pp. 509 sqq. Compare Kriehn's Memoir cited below, n. 5.

3. *The Peasants' Rising and the Lollards, a Collection of Unpublished Documents.*

4. *England in the Age of Wycliffe*, 1899. About the same time there appeared in Russian a book which it would be well to translate for the use of western historians: *Vozstanie Uota Tailera*, by Professor D. Petrushevsky. In the first part he deals with the rebellion; in the second with its causes and with the fourteenth century manor. See the review of the second part by M. Savine in the *Eng. Hist. Rev.*, 1902, pp. 780 sqq. I much regret my inability to make use of Mr. Petrushevsky's work.

5. *Studies in the Sources of the Social Revolt in 1381*, in *Amer. Hist. Rev.*, vol. vii, 1901-2.

6. *The Great Revolt of 1381*. The reader should refer to the critical review of Mr. Tait, especially in regard to Mr. Oman's study on the Poll Tax (*Eng. Hist. Rev.*, 1907).

manor,[1] and by an excellent study by Miss Putnam, showing how the Statute of Labourers was put into force.[2] Finally, books and essays on political, municipal, religious, and economic history have given us more exact knowledge of the conditions in which the rebellion arose.[3]

With the assistance of these new authorities I have attempted a second sketch, necessarily much shorter than my first. I have fortunately been able to follow the main lines of my previous study; but I have modified and corrected it where necessary, made some important additions, and abandoned one or two theories.[4] I hope, however, that on the whole my readers will recognise the soundness of the main conclusions which the documents collected by Réville enabled me to publish fifteen years ago.

1. F. G. Davenport, *Economic Development of a Norfolk Manor*; A. Clark, *Serfdom on an Essex Manor, 1308-78*, in the *Eng. Hist. Rev.*, 1905; K. G. Feiling, *An Essex Manor in the Fourteenth Century*, in *Eng. Hist. Rev.*, 1911.

2. Bertha H. Putnam, *Enforcement of the Statutes of Labourers during the first decade after the Black Death, 1349-59*, in *Columbia University Studies in History*, vol. xxxii, 1908. Compare the same author's *Justices of Labourers in the Fourteenth Century*, in *Eng. Hist. Rev.*, 1906.

3. For example, C. T. Flower, *The Beverley Town Riots, 1381-2* (*Trans. Royal Hist. Soc.*, New Series, vol. xix); J. Gairdner, *Lollardy and the Reformation in England*, vol. i; E. P. Cheyney, *Disappearance of English Serfdom*, in *Eng. Hist. Rev.*, 1900.

4. Especially that in regard to the feelings of the lower classes concerning the exactions of the Papacy. See below, p. 272, n. 2.

(1)

## CAUSES OF THE RISING.

Stubbs wisely laid stress on the complex character of the movement of 1381, and on its strange and somewhat inconsistent features; but he gave a very insufficient explanation of it, and certain inferences which he derived from Rogers are now shown to be unsound. Why in this particular year did the rural population of certain counties rise in a general rebellion? Why do we find among the rebels many artisans and merchants? Why were the boldest and most violent leaders often ecclesiastics—country priests and chaplains? Why was popular hatred directed against the most influential counsellors of the young king, such as John of Gaunt, Sudbury the archbishop of Canterbury, and Hales the treasurer? What were the grounds of the hatred shown against the judges and the sheriffs, the escheators and the tax-collectors? What was the reason of the massacre of foreign merchants or of the attacks on the municipal authorities in certain towns? How can we explain the unrestrained and unresisted pillage in vast districts? From whence did these armies of brigands suddenly appear, as if they had sprung out of the ground? How was it possible for such diverse movements to occur simultaneously? Were there general causes which operated in all parts? Had the rising on the whole a political character, or must we regard it as a social upheaval provoked by communistic agitators? Had it religious causes, and did Lollardy, then in its infancy, contribute to it? The events of 1381 suggest these questions, and we believe that the documents which have been published will enable us to answer them.

**Questions to be answered**

On a careful examination of the records, it appears

that, in order to explain most of the features—sometimes very astonishing ones—which we have just enumerated, we must go back to two conspicuous facts of general history which dominate the second half of the fourteenth century in England, namely, the Black Death, and the war with France.

**Initial causes**

The Black Death, which ravaged England from August 1348 to the end of 1349,[1] and made another visit in 1361, carried off perhaps a half of the population, caused a remarkable disturbance in production, wages, and prices, and led to profound changes in the relations between employers and workmen, sellers and consumers. The war with France drove the crown to lavish expenditure and the raising of heavy taxes. It moreover occasioned an increase of disorder and a decline of morals. From the plague and the war issued economic calamities and revolutionary sentiments which explain the rising of 1381.

**The Black Death and the French War**

We shall first examine the effects of the plague in the rural districts. As Mr. Ashley justly observes, "to understand the rural life of England during this period is to understand nine-tenths of its economic activity." [2] Moreover, it was in the country villages that the rebellion took its rise.

**i. The Black Death: its results in the rural districts**

In his great *History of Agriculture and Prices* Thorold Rogers argues that in the fourteenth century the villeins [3] had "almost all" been released from the burden of forced labour, for which money payments had been substituted. He was

**Thorold Rogers' theory**

1. And not from May 31 to Sept. 29, 1349, as Stubbs asserts, vol. ii, p. 418 n. See Charles Creighton, *History of Epidemics in Britain*, vol. i, chap. iii; F. A. Gasquet, *The Great Pestilence*.

2. *Introduction to English Economic History*, 2nd edit., vol. i, pt. i, p. 6.

3. It must not be forgotten that in England at this time "villein" and "serf" were synonymous. See my study on the *Origins of the Manor* (*supra*, i. 1 sqq.); cf. Stubbs, *Const. Hist.*, ii. 475.

led from this to an inference regarding the origins of the rebellion. According to him, the landed aristocracy, compelled, by the abolition of villein services, to employ hired labourers to cultivate their own demesnes, found their interests threatened by the rise in the price of labour after the Black Death, and wished therefore to return to the old system. This reaction infuriated their tenants and was one of the chief causes of the revolt of 1381.[1] Stubbs accepted this theory, [2] which Rogers himself maintained very positively in later works.[3] It was rejected—though rather too hastily—by Mr. Ashley. [4] As far as it concerns the substitution of money payments for labour dues, Rogers' theory is not false; it is merely exaggerated: but in regard to the restoration of the previous system, it is based on mere conjecture, and even if the theory should be confirmed by the discovery of new documents, it would explain to only a small extent the grievances of the peasants. It is evident that the main causes of their discontent must be sought elsewhere.

**Objections to Rogers' theory**

In my analysis of the manorial records collected principally by Réville, I have shown that the substitution of money rents for labour services had only just begun when the Black Death came and reduced by one-half the supply of labour and raised all prices.[5] At the same time, Mr. Page was also studying the question, and after extensive researches he arrived at identical conclusions.[6] Up to 1348, in fact, labour services seem to have been rendered in the majority of manors, and in those where money payments existed they had been instituted for special

1. *Hist. of Agriculture and Prices in England*, i. 81 sqq.
2. See Stubbs' *Const. Hist.*, ii. 476-7.
3. *Six Centuries of Work and Wages*, edit. 1908, pp. 253 sqq.; *Economic Interpretation of History*, p. 29.
4. *Op. cit.* i, pt. ii, pp. 265 sqq.
5. See my *Introduction historique* to Réville's book, pp. xxiii sqq.
6. *Umwandlung der Frohndienste*, especially pp. 22 sqq. See also Miss Davenport, *Economic Development of a Norfolk Manor*, p. 52.

reasons, varying according to place and circumstance, but unconnected with a desire to improve the villein's lot. In the first half of the fourteenth century, it sometimes even happened that the system of commutation operated to the evident disadvantage of the villeins, and that while continuing to perform week-work, they were thence-forward compelled to pay a pecuniary compensation whenever their services were not actually required.[1] In short, it is true that labour dues had begun to disappear, but the institution of money rents was not always a gain for the peasant, and it was far from general. A return to the old system, therefore, cannot be, as Rogers urges, "the key to the insurrection of Wat Tyler." Rogers, moreover, cites no document which proves that this reaction occurred, and the researches of Mr. Page have convinced him that, on the contrary, in the years immediately before the revolt the tendency towards the substitution of money payments for labour became stronger rather than weaker.[2] No doubt in manors where the change had taken place disputes may have arisen in the way that Rogers suggests; but there is no reason to believe that such cases were frequent.

"The key to the insurrection" must therefore be found elsewhere. We have to discover what happened as a result of the plague, and how the lords came into conflict with the peasants.

The Black Death had been most fatal to the lower classes, who lived in very insanitary conditions.[3] Whole villages were depopulated. Of those able to work, a great number of free tenants and villeins perished. The agricultural labourers, farm servants, road-menders, and the reapers

**Rise in wages after the plague**

1. Maitland, *Hist. of a Cambridgeshire Manor* (*Eng. Hist. Rev.*, 1894, pp. 418 sqq.). Compare my *Introd. Historique*, p. xxiv.
2. *Umwandlung*, pp. 40 sqq.
3. See the preamble of the Ordinance of 1349, in *Foedera*, Rec. ed., iii, pt. i, 198; or in Miss Putnam's *Enforcement of the Statutes of Labourers*, Appendix, p. 8*.

who came from the towns for the harvest season, were also decimated; and the survivors profited by the situation to demand higher wages. Rogers has calculated that after the plague rural wages rose 48 per cent.[1] The judicial documents recently published by Miss Putnam confirm those used by Rogers. They show that reapers frequently received 5d. or 6d. a day instead of the 2d. or 3d. which they earned before the plague. Haymakers, instead of 5d., demanded 9d., 10d., and even 1/- or 1/2d. an acre.[2]

**Small holdings deserted**

The small holders, and especially the villeins, observing this rise of wages, strove to benefit by it; and many left their holdings to offer themselves as hired labourers. This is a notable fact, the importance of which cannot be exaggerated. Villeins fled from their manors much more frequently than before. With this exodus following so closely on the plague, the landowners saw their manors becoming devoid of workers.[3] All the manorial records show us that vacant holdings were very numerous and that tenants could not be found to occupy them. The landlord was already unable to cultivate his own demesne by means of labour services. We may mention, for example, the state of things described by Miss Davenport in her valuable study on the manor of Forncett in Norfolk. Out of 3,219 day's works in winter, summer, and autumn, 1,452 in 1376–77, and 1,722 in 1377–78, could no longer be obtained. It was not that the labour services had been converted into a pecuniary tax; there was in the manor only one holding where this change had been carried out; but the tenants had disappeared in large numbers, whether through the extinction of whole

1. *Hist. of Agric.*, i. 265 sqq., 687.

2. Miss Putnam, *Enforcement*, p. 90.

3. For examples, see Maitland, *History of a Camb. Manor*, pp. 423 sqq.; Miss Davenport, *op. cit.*, pp. 72 sqq.; Page, *op. cit.*, pp. 38 sqq. and note 27.

families or through departures from the district.[1] If the demesne was to be cultivated on the same lines as before, it was therefore necessary to have recourse to agricultural labourers; but their claims had doubled. And what was to be done with deserted holdings outside the demesne?

**Remedies. Sheep-breeding**

To avoid ruin, certain lords no doubt took up sheep rearing, which required few hands. English sheep, moreover, had a high reputation, and their wool had for long been famous. But this policy involved a revolution which could not be rapidly accomplished, and in fact it was mainly after the beginning of the following century that it was very gradually carried into effect.

**Concessions made to obtain labour**

Most of the landholders continued to practise agriculture as best they could. Often they went so far as to lease both their demesne and also the empty holdings, and in this way serfs as well as free peasants received land on advantageous conditions. It was perhaps in order to keep their villeins that the lords of certain manors abandoned the system of labour services after the plague.[2] At any rate it is evident that in many cases they thought it wise and profitable to make concessions. In France, in the same way, the calamities of the Hundred Years' War forced the nobility and the church to enfranchise the serfs in a body. It is also certain that the English landowners were often driven to pay their hands very high wages, and that they fought amongst themselves for a supply of labour, seeking to attract villeins from other estates and enticing labourers who were working in the neighbourhood. The legal cases of

1. Miss Davenport, *op. cit.*, pp. 51 sqq.; see also Page, *op. cit.*, p. 35 and note 22.

2. Thus in 1352 all the labour dues were changed into pecuniary rents in the manor of Castle Combe (Page, *op. cit.*, p. 33, n. 18). The motive of this substitution is not quite clear: the rise in the price of food may have made it to the lord's interest to abolish the labour services, for a meal was generally given to those performing them. See the examples of these meals in my *Introduction*, p. xxvi, n. 4; p. xxvii, n. 4; p. xxviii, n. 1.

which we are about to speak prove this clearly. Constrained by circumstances, the aristocracy thus helped to develop the class of free-tenants, farmers, and well-paid labourers who, after repeatedly raising their demands at the expense of the higher orders, turned against them in 1381.[1]

**Resistance of certain landowners**

Besides these landlords of opportunistic temperament, there were others more tenacious and strong-willed, who were eager to maintain their rights and their ancient methods of cultivation. It is not surprising to find among them a number of churchmen. In England, as in France, ecclesiastical landlords administered their estates during the Middle Ages with scrupulous and severe vigilance.[2] At this time, they took the earliest opportunity of undoing any changes they had made. Thus the court rolls of the manor of Hutton, which belonged to Battle Abbey, show the abbot driven to lease vacant holdings in 1349 and the following years, but letting them for only a short term—twelve years at most. After 1355 he concluded new arrangements for one year only, raising the rents and returning to the old system of tenure whenever he had a good chance to do so.[3]

**The burdens of villeinage maintained**

A number of manors, especially those in the hands of monasteries, had lords of the same temper as the abbot of Battle. A certain number of manorial records dating from the years immediately before the revolt bear witness to the rigor-

1. It should be noticed that in England the plague only assisted a development which the disastrous famines of the reign of Edward II had rendered necessary. Wages had begun to rise as early as the first half of the fourteenth century and an increase in the numbers of free holdings and farms had already appeared before 1350 (see my *Introduction*, pp. xxix sqq.). But the decline in population caused by the plague accelerated the movement, and gave rise to new ambitions.

2. Their covetousness was a theme of reproach. In the Year Books of Edward II (iv. 69) there appears this gibe of Justice Bereford at the bishop of Hereford : " Gentz de seinte Eglise ont une merveillouse manere : s'ils eient le pée en la terre a akun homme, il volont avoir tut le corps."

3. K. G. Feiling, *Essex Manor, Eng. Hist. Rev.*, 1911, p. 335.

ous maintenance of the burdens of villeinage, and to the differences which were thus caused between the lords and the villeins. The dispute over labour services did not arise in the way Rogers supposed; no attempt was made to revive an obsolete institution; the lords merely desired the continuance of obligations which were still in existence, although no longer compatible with the progress of the labouring class. Dues of various kinds were sternly exacted, and the personal disabilities of the villeins inexorably maintained. The manorial courts showed no mercy to the villein who without leave had married his daughter, sent his son to school, or sold a fowl.[1] Fifteen years after the plague the villeins of the manor of Hutton saw the lord abbot buy for their benefit such instruments of correction as a pillory and a ducking-stool; and from 1366 to 1368 the number of fines inflicted in the manorial court increased three-fold.[2] We have numerous proofs of the severity shown by certain lords. Men of moderate views like the pious William Langland were horrified, and offered the unsuccessful advice: "When you inflict a fine, let mercy fix its amount." In his sermons, Wycliffe vainly rebuked the lords for ruining the poor with fines.[3] The victims had no legal means of escape. The villeins were still at the mercy of their lord, with the sole protection of manorial custom. The courts of common law were more strictly closed to them than ever; no villein could bring an action against his lord. And when they ran away, they were pursued and put in prison.

The contrast between their legal condition and the new prosperity which the economic crisis had brought to the

1. See my *Introduction historique*, pp. xxxvi, sqq.; and Réville's essay on the rising of the peasants at St. Albans, pp. 5 sqq.

2. Feiling, *op. cit.*, p. 335. See also in the *Chronica Monasterii de Melsa*, ed. Bond. (R. S.), iii. 126 sqq., the account of the troubles between the abbot of Meaux and his villeins about 1358.

3. See my *Introduction historique*, p. xxxvi.

**The law and economic changes**

labouring class in general, was for the villeins a source of continual irritation. Even those who were badly treated by their lords had benefited through the general rise of prices. At least up to the death of Edward III, they could make large profits on the sale of their produce, for the price of corn and cattle did not decline till the last quarter of the century.[1] But the burden of serfdom seemed to them only the more insupportable.

Nothing was therefore more natural than the efforts they made to free themselves by means of concerted action. The movement became so general that in 1377 the matter was put before the king by parliament. According to the lords and the knights of the shires, the villeins were conspiring to refuse their "customs and services" and claimed that they were "free from every kind of serfdom." They threatened with death the officers of their lords, and refused to obey the decisions of the manorial courts. They supported their claims by passages from Doomsday Book.[2] They gathered on the roads, and joined in "confederacies" to make resistance to their lords.[3] The statute of 1377, which authorised proceedings against the conspirators, failed to overcome their obstinacy.[4] The general refusal of "works, customs, and services," in the counties which rebelled in 1381, was thus only the extension of a movement already in existence.

**The villeins combine**

The statute of 1377 was not the only weapon which the landowners obtained from the crown and from parliament. Another had been given at the very beginning of

1. See the lists of prices in the first vol. of Rogers' *History of Agriculture and Prices*.

2. Without doubt because the services were not expressly mentioned. See the very sound remarks by Mr. Tait in his review of Mr. Oman's work (*Eng. Hist. Rev.*, 1907, pp. 161 sqq.).

3. See the text of the statute of 1377 in *Statutes*, vol. ii, pp. 2 sqq.; or in my *Introduction historique*, pp. xxxvii-xxxviii.

4. For an instance of a league of villeins in 1380 to withhold from a lord his "consuetudines et servicia," see my *Introduction*, p. xxxix, n. 4.

the crisis to employers and consumers as against workmen and vendors of commodities, namely, the ordinance and statutes "to restrain the malice of servants" and to obviate "the outrageous dearness of victuals."

While the plague was still raging and it was impossible for parliament to assemble, the royal council had taken vigorous measures. An ordinance had been published on 18 June, 1349.[1] It compelled men and women under sixty, having no means of support, to work when they should be required; they and all other labourers had to accept the wages usually paid in 1346, or in the five or six years before. Breaches of contract were forbidden. Penalties were imposed on all those who should violate the ordinance, including employers who offered wages above the legal rate. Retailers of food and innkeepers were to charge reasonable prices.

**The Ordinance of 1349**

The statute of 9 February, 1351, made the law more precise, and fixed at a definite amount many kinds of wages. It was afterwards re-issued and made more severe. A statute of January 1361 ordained that labourers who went from county to county seeking higher wages should be branded on the forehead with a red-hot iron. The commons, especially from 1377 to 1380, were continually clamouring for the enforcement of the law.[2]

**The Statutes of Labourers**

In certain respects this legislation was a complete novelty. Of course mediæval notions concerning the regulation of labour easily led to intervention of this kind. In the towns, it was usual for wages and prices to be controlled by the municipal authorities. The local courts, whether of the county, the hundred, or the manor, had for long concerned themselves with the relations between employers, workmen, and consumers; but agri-

1. In the *Foedera* it is dated 1350, and the mistake has passed into my *Introduction* to Réville's book. The exact date is to be found in *Statutes*, vol. i, pp. 307 sqq.; and in Miss Putnam, *Appendix*, pp. 8*–12*.

2. *Statutes*, i. 311 sqq., 366 sqq., etc.; Miss Putnam, pp. 12*–18*.

cultural wages had never been subjected to an official limitation, and free labourers had never been forced to reside in a certain district. It was natural that the government should listen to the complaints of employers and consumers, and seek remedies for an unprecedented crisis which threatened to ruin the whole nation[1] ; but it could not reconcile interests diametrically opposed to each other, and its policy excited furious indignation.

This policy was persistent and vigorous. On the enforcement of the ordinance and the statutes, Miss Putnam's solid work has thrown an entirely new light, and one can only regret that, as regards the greater part of the subject, the researches of this scholar come to an end at the year 1359. The ancient popular courts sometimes dealt with offences against the statutes of labourers; but it was to the advantage of the lords, who were granted the fines paid by their tenants, that such cases should come before the royal tribunals. As a rule, offenders were tried by special commissions of "justices of labourers," or by commissions charged at the same time with the conservation of the peace.[2] The statute of 1368, in fact, entirely transferred to the justices of the peace the functions of the justices of labourers. The class from which these guardians of public order were chosen was

**Enforcement of the Statutes**

1. The English government was not the only one to take such measures. In France, and in particular at Paris, the Black Death also caused a rise in wages, and the king published an ordinance (30 Jan., 1351) which it is interesting to compare with the English ordinance. See *Ordonnances*, ii. 352 sqq.; R. Eberstadt, *Das französische Gewerberecht vom dreizehnten Jahrhundert bis 1581*, pp. 163 sqq.; Fagniez, *Docum. relatifs a l'hist. de l'Industrie et du commerce en France*, ii. xxviii sqq.

2. It was natural that the same commissioners should be charged with the keeping of the peace and the execution of the statutes of labourers. Even during the period when special commissions were appointed, that is to say, from 1352 to 1359, out of 501 commissioners who were nominated as "justices of labourers," there were 299 who in the preceding years had been justices of the peace. Among these 501 there were a few lawyers and municipal officials, but most were rural landowners. Parliament made constant efforts, which were generally in vain, to obtain control of the appointments.

the most conservative in the country—the class which already controlled local administration and furnished the members of the house of commons, and which had the greatest interest in the maintenance of the old economic conditions—namely, the middle class of the rural districts.

**The commissions of labourers**

Each "commission of labourers," appointed at fixed salaries, exercised jurisdiction in a single county, or more commonly in a subdivision of a county, and tried cases with the assistance of a jury of presentment and a petty jury. As far as can be gathered from the reports which are still extant, "excesses" of wages and prices were the offences with which the commissioners had most often to deal, but they concerned themselves with almost all the cases provided for in the statutes. They sometimes even turned their attention to dividing the supply of labour among the employers. The abbot of Pipwell complained that they compelled his tenants to work for those in competition with him, and that at a time when he had land lying fallow through lack of labour; and the king pointed out to the justices that it was not reasonable to deprive the abbot of the help of his tenants when he had need of them, and was ready to pay legal wages.[1] It is evident that the commissioners were very active and very tyrannical.

**Fines**

The commissioners often inflicted sentences of imprisonment, but they generally imposed fines, or else simply condemned the offender, whether labourer or employer, to pay the *excessus*—that is, the difference between the legal wage and the wage given. Every year the fines and the *excessus* amounted to a sum large enough to be coveted. During the first years it was used, at the request of parliament, to relieve taxation. Subsequently the lords succeeded in securing for themselves the sums which their respective tenants were condemned to pay.

1. Miss Putnam, *Appendix*, p. 218.*

Cases more difficult to decide were the actions for breach of contract. These were generally brought either before the King's Bench, or more frequently before the Court of Common Pleas. Miss Putnam conjectures that from 1351 to 1377 the two supreme courts dealt with 9,000 of these actions, brought by employers against men who left their work before the end of their contract, or against other employers who had enticed their labourers from them. Here again we see that the statutes were very widely interpreted, and that schoolmasters, chaplains, bailiffs, and esquires were regarded as bound to their masters by the terms of these laws.

**Action of the supreme courts**

It was in such ways that the statutes were put into force. The royal council watched narrowly over their administration, and often recalled commissioners and suppressed abuses. There can be no doubt that the advisers of Edward III and Richard II were honestly trying to avert a catastrophe, without any intention of oppressing the labourers, of filling the treasury with the produce of the fines, or of increasing the authority of the crown. They did not succeed in stopping the increase of wages and prices, for in the years immediately before the revolt the commons were continually complaining that the statutes were not observed; but it is beyond question that they retarded the rise of rural wages, and the break-up of the manorial system.[1] The object which the government persistently and honestly pursued was the maintenance of the old social organisation.

**Aims of the government**

For this very reason the execution of the ordinance of 1349 and of the subsequent statutes exasperated the smallholders and labourers of the country districts. It was not unknown for every workman within the jurisdiction of a

**Unpopularity of the justices**

1. It is impossible to accept Stubbs' assertion that the statutes produced no effect whatever (*Const. Hist.*, ii, 473).

commission of labourers to refuse the oath to obey the statute; and sometimes the commissioners were attacked and threatened with death.[1] In 1381 the rebellious peasants seized the justices and broke open the prisons. All of whatever degree who were connected with the administration of the law became objects of the same hatred, and were regarded as enemies of the people.

**Effects of the Black Death on the industrial classes**

The results of the Black Death were equally striking in the towns. In the fourteenth century town life was beginning to assume some importance. At the accession of Richard II, London had 40,000 inhabitants, York and Bristol 12,000, Plymouth and Coventry 9,000, Norwich, Lincoln, Salisbury, Lynn, and Colchester between 5,000 and 7,000.[2] Industries were multiplying and becoming more specialised. The gilds of artificers (craft gilds) were developing by the side of the merchant gilds. There were forty-eight of them in London at the end of the reign of Edward III. The woollen industry was bringing much wealth to the towns of Norfolk.[3] The plague carried off hundreds in the narrow streets of the towns as it did in the cottages of the peasants, and in the towns also the high price of labour gave to the survivors an unprecedented prosperity. The records show a house-painter, a weaver, and several tailors obtaining three times as much as their previous wages.[4] Moreover, these demands, though greatly to the disadvantage of the consumer, did not necessarily occasion trouble between masters and workmen. Most of the masters worked with their own hands, and lived on very intimate terms with their workpeople, taking counsel with them as to means of increasing their profits. Often

1. Miss Putnam, pp. 76, 93 sqq.
2. Ashley, *Economic History*, i, pt. ii, p. 11, based on the Poll Tax Rolls of 1377.
3. *Ibid.*, i, pt. i, pp. 86 sqq., pt. ii, pp. 70 sqq. and 209 sqq.; Gross, *Gild Merchant*, i, chap. 7.
4. Miss Putnam, p. 90.

indeed the journeyman was paid directly by the customer, and his work brought in nothing for his employer. As a rule, therefore, masters and workmen had the same interests, and the public suffered accordingly. The artisans offered a violent resistance to the statutes of labourers. They refused to serve those who would not give them high wages.[1] They broke their contracts in order to work for those who offered more.[2] They formed "leagues, confederacies, and conspiracies" to keep up the price of labour.[3] They forcibly opposed the execution of corporal punishments imposed by the justices of labourers.[4] They supplied to the rebel hordes of 1381 numerous recruits and several leaders. In London the participation of the artisans gave the rising a character of ferocious brutality.

**The Statutes resisted by artisans**

The germ of the revolt in the towns was the same as in the country. In both, those of the working classes who had survived the plague had greatly benefited by the economic crisis which it had caused, and they wished to maintain and even increase their prosperity. Froissart, who was much better informed concerning these events than has generally been supposed, acutely says: "This rebellion was caused and excited by the great ease and plenty in which the meaner folk of England lived." Gower and Langland re-echo the lamentations of the middle classes over the demands of servants and workmen. They must have good fare of flesh or fish, dishes well cooked, "*chaude* or *plus chaud*";[5] and in a judicial document recently published we actually

**Attitude of the labouring class in general**

1. "Rogerus de Melbourne, faber, renuit servire vicinos et servit extraneos causa excessivi," Putnam, *App.*, p. 165.*
2. Even when they were employed in the service of the king. See *Foed.*, Rec. ed., iii, pt. ii, 613 sqq. (A.D. 1361).
3. *Statutes*, i, 367.
4. Putnam, *App.*, p. 167.*
5. See the passages cited in my *Introd.*, pp. xl and xlviii sqq.; also Stubbs, *Const. Hist.*, ii. 476, n. 1.

read of a carter who left a town because his employer would not pay him by the day or give him fresh meat. [1] In town and country alike the workers were now conscious of their strength, jealous in defence of their comfort and their pleasures, and ready to attack the lords, the rich, and the king's officers, who were endeavouring to deprive them of their new prosperity. Where serfdom still existed, the villeins ran away to offer themselves as journeymen, or else they formed unions to refuse their services.

**The trading-class**

The merchants and tradesmen were also affected by the laws of Edward III, which punished on the one hand retailers of food and innkeepers if they raised their prices, and on the other hand those who adulterated goods or strove to create monopolies. This class, divided by terrible feuds, was profoundly affected by the rebellion. It provided the rebels with victims as well as leaders; for English capitalists,[2] and still more foreigners under the protection of the crown, like the Flemings and the Lombards, were persecuted, robbed, and murdered. During these days the small traders had their chance of revenging old wrongs and gratifying their jealousy.[3]

**Hatred of foreigners**

To anyone unfamiliar with the history of the English Church at this period, it must seem strange to find many priests and chaplains among the most dangerous of the popular leaders of 1381. The anarchist preacher, John Ball, was listened to as a "prophet" by the rebels of the south-east. In Essex, in Hertfordshire, Cambridgeshire and Suffolk—almost everywhere in fact—the lower clergy were deeply involved in the rising.

**Share of the lower clergy in the rising**

Clerks with small benefices and the stipendiary clergy, the two classes which furnished these rebels, had been

1. *Putnam*, App., p. 196.*.
2. See the article by Alice Law, *The English 'Nouveaux Riches' in the Fourteenth Century* (*Trans. Royal Hist. Soc.*, New Series, ix, 49 sqq.).
3. See the documents cited in my *Introd.*, pp. xlvii sqq., li sqq.

greatly affected by the Black Death.[1] Obliged by their duty to come into contact with the sick, the parish priests were perhaps of all Englishmen the most hard hit by the pestilence. In East Anglia more than eight hundred parishes were deprived of their priests in a single year. Eighty-three lost two in rapid succession, and ten saw three perish in a few months. In some districts no one could be found to administer the sacraments to the dying. Extraordinary measures had to be taken. The bishops ordained young clerks who had not reached the canonical age and men without learning or of doubtful antecedents. As a result of this difficulty in filling their ranks, the boorishness of the rural clergy, already notorious in normal times, became still worse. In addition, the dearness of food made them more wretched and greedy than ever. Very often they failed to obtain the increase of income which they needed in order to exist. Sooner than accept a cure and fast there for ever, many clerks adopted a wandering life, selling their ministrations to the peasants, accepting posts as private chaplains or chantry priests, and demanding stipends which were sometimes large enough to bring them before the justices of labourers. So even in the Church the Black Death gave rise to a wages problem, and drove on to the highways, by the side of labourers in quest of good pay, bands of vagabonds in holy orders, disposed to share and excite the bitter feelings of the people.[2]

**Effects of the Black Death on the clergy**

The higher clergy, consisting of younger sons of the nobility, worldly, greedy, corrupt in morals, did nothing to relieve the miseries and mollify the concealed indignation of this ecclesiastical proletariate. By their insensibility they suggested themselves as an object of attack.

**Indifference of the higher clergy**

1. For what follows see especially A. Jessopp, "The Black Death in East Anglia" in *The Coming of the Friars and other historic Essays*.

2. See the documents printed by Miss Putnam, *App.*, pp. 147*, 171*, 194*.

Whereas a parish priest could no longer live on less than ten marks a year, archbishop Islip ordained the suspension of all those who demanded more than five or six marks; and this great prelate drew up a grandiloquent invective against the covetousness of the priests, "gorged with excessive revenues."[1] It is not surprising that one of his successors, Sudbury, who was among the best prelates of the time, should in 1381 have paid with his head for the accumulated sins of the higher clergy. It is not surprising that the despised and starving priests, the wretched holders of chantries, and the wandering clerks, should have led the peasants to the assault of episcopal manors and wealthy monasteries.[2]

**ii. Results of the French War**

It has been shown that the events of 1381 owed their origin in particular to the Black Death and its economic and social consequences. To a less but still important extent the French war had also prepared the way for a revolution. In the first place, it had made the English discontented. It necessitated heavy exactions, especially the Poll Tax, which proved to be the exciting cause of the rising. It rendered unpopular a government which, despite such heavy subsidies, had lost all its French possessions, and could not even protect the English coasts from the descents of French privateers, or the border counties of the north from the raids of the Scots.[3] When taxes grow and security

**Unpopularity of the government**

1. The document is cited by W. W. Capes, *English Church in the Fourteenth and Fifteenth Centuries*, p. 78. Islip was archbishop of Canterbury from 1349 to 1366.

2. I have abandoned the theory that the exactions of the Papacy may have contributed to the popular discontent (cf. my *Introduction*, p. l). It does not appear that the insurgents complained of them. It is remarkable that where they meddled with disputes as to the tenure of benefices or prebends they supported clerks who had received a papal provision. At Bury the people took the side of Edmund Brownfield, who, being provided by the pope to the abbey, had been imprisoned by the king in accordance with the Statute of Provisors (see Réville, pp. 65-6; Powell, pp. 15 sqq.). At Salisbury and Bridgewater the people likewise supported a provisor (see my *Introd.*, p. cix).

3. See my *Introduction*, pp. lv sqq.

declines, the government always receives the blame. The costly and disastrous war with France produced a hatred of "traitors." In 1381 the English saw traitors everywhere, like the French republicans in 1793.

**Prevalence of disorder**

The war had also tended to brutalise the nation. In the years immediately before the rising, the rolls of parliament, the statutes, and the royal letters leave the impression that great disorder prevailed in the country. Crimes of violence were very frequent. Armed bands were organised, not only for robbery, but to gratify private ambitions, to abduct heiresses, to take possession of a manor, or to terrorise the justices. During the campaigns in France the nobles had acquired lawless habits. They had retainers whose interests they maintained by force; they kept troops of swashbucklers; and in Nov. 1381 parliament pointed to this custom of "maintenance" as one of the causes of the revolt.[1] Moreover, these armies of lawbreakers were easily recruited, for many of the brigands of all countries who had formerly served under Edward III and the Black Prince, had come to England since Charles V and Du Guesclin had driven them from France. A few, like the sometime weaver, Robert Knolles, had made their fortunes and become pillars of the throne. Knolles helped to suppress the rebellion in 1381; but others who had been less lucky were tramping the highways,[2] ready for any desperate enterprise, and sharing the lot of fugitive villeins, labourers wanted by the authorities, and wandering

1. *Rot Parl.*, vol. iii, 100, sect. 17.

2. They were a subject of complaint as early as the time of the Treaty of Brétigny. According to a statute of 34 Ed. III the justices of the peace were to "informer et enquere de touz ceux qi ont este pilours et robeours *es parties de dela, et sont ore revenuz* et vont vagantz et ne voillent travailler come ils soleient avant ses hours." In 1363 the king wrote to Warin de l'Isle that horrible robberies had been committed in Wiltshire, Berks, and Hants by "malefactores . . . qui nuper de pillagio et latrocinio *in partibus exteris* vixerunt" (see the documents published by C. G. Crump and C. Johnson, *The Powers of Justices of the Peace, Eng. Hist. Rev.*, 1912, pp. 234, 236-7).

or excommunicate clergy. There can be no doubt that in 1381 bands of rebels were frequently led by old soldiers, both English and foreign, accustomed to pillage and bloodshed, whether for gain or for the gratification of their brutal passions. The exploits of these bands, their daring, their sudden raids, strongly remind one of the great Companies—a name, indeed, by which they sometimes called themselves.[1]

**Secondary and local causes**

Certain events of 1381 must be ascribed to causes of a much less general character. They might have occurred at other times even if the great rebellion had never broken out, and they were often episodes in long local quarrels which had begun many years before. They were connected with the revolt, however, by more than mere coincidence. Thus, in several towns, the news of the insurrection in the south-eastern counties stimulated the common people to rise up against the oligarchy who held the municipal government. Other towns, like St. Albans and Bury St. Edmunds, renewed their previous efforts to shake off the strict control of their lords. Others, again, which were jealous of their neighbours, used the opportunity to gratify old grudges. Yarmouth, for instance, on which commercial privileges had been conferred by the king, was invaded by the inhabitants of the adjacent districts, and its charter was torn up.[2] Finally, numerous people made use of the insurrection to revenge themselves on their personal enemies.

**The rising lacking in unity**

Whether one considers its principal or its secondary causes, it is true to say that the revolt of 1381 was, so to speak, a settlement of old scores of every kind. It was above all an eruption of long-cherished envy, hatred, and malice—feelings which had every excuse—towards the selfishness of the rich. It is

1. "Dixit quod ipse est nuntius *magne societatis* et missus est ad villam Sancti Edmundi predicti ad faciendum communitatem eiusdem ville surgere" (Powell, *Rising in East Anglia*, p. 127).

2. Réville, *op. cit.*, p. 109.

consequently most instructive to the historian. But for the same reason it altogether lacked unity, it was not inspired by a single noble idea, and it was directed by demagogues of only mediocre ability. It had some of the characteristics of a political movement, of a religious movement, and especially of a social movement; but none of these terms defines it sufficiently, and even if one uses all three to describe it, there is still a danger of giving a false impression.

We cannot call it a political rising unless all manner of qualifications are at once added. It was, in fact, inspired by very different sentiments in different regions, and there were districts where the rebels showed no desire for a change of ministers. Nowhere was there any thought of a dynastic revolution. In several counties, it is true, "kings of the commons" made their appearance; but they were incendiaries without any programme —mere leaders of rebel bands. Even in the south-eastern counties, where the government was very unpopular, the rebels affected a high regard for the person of the king. A careful distinction was drawn between him and the "traitors" who surrounded him.

**The rebels without a political programme**

Several "traitors" atoned with their lives for the humiliation and the misfortunes of England, but these murders were not the outcome of a calculated policy. They were inspired by childish hatred. This naïve feeling had no connection with any political scheme. No one suggested any way of doing better than the men in power, and there was no reasonable motive for substituting new ministers for those in control of affairs. Neither the king, nor as a rule the very persons who were insulted with the name of "traitors," were at all responsible for the evils under which the realm was suffering. Sudbury and Hales were honourable men. The Duke of Lancaster, in regard to whom the rebels were by no means in

**Hatred of traitors**

agreement,[1] was rather foolish than dangerous. All of them were involved in extraordinary difficulties. Disorder had for many years been general. The financial problem was insoluble. Unpopular as the taxes were, they were yet indispensable, since parliament itself was not ready to take the responsibility of making peace with France. The luxury of the Court, of which so much was said, was not peculiar to England. The king of France and the duke of Burgundy, in particular, were certainly no less extravagant than Edward III and Richard II. The difficulties would not have been solved by reducing the staff of the king's household. The truth was that England was paying for Edward III's ambitious policy and careless administration. It was not by cutting off the heads of several ministers without suggesting anybody to take their place that the prestige and prosperity of England were to be restored. The political situation was certainly serious, and contributed to the general discontent; but for many reasons, and especially because they had no clear idea of the reforms which were needed, the rebels were incapable of effecting any improvement. Their very leaders had no political programme.

Nor were the rebels of 1381 heretics. It may be regarded as proved that Wycliffe had no influence on the revolt.[2] Lollardy was still in its infancy. The insurgents were not Lollards; they nowhere denied the spiritual powers of the clergy; they nowhere injured the statues or pictures of the saints. But this does not exclude the possibility that very revolutionary notions about a Christian democracy were in the air, and that many felt a strong contempt for the vices of the higher clergy and

**Were religious influences at work?**

1. See Stubbs, ii. 472.

2. See my *Introduction*, pp. lxiii sqq.; Trevelyan, *England in the Age of Wycliffe*, pp. 195 sqq.; Gairdner, *Lollardy and the Reformation in England*, i. 14 sqq.

of the profligate rich. While preaching resignation to humble folk, Wycliffe fiercely denounced the excessive wealth of the prelates and the monks. Men of moderate views, friends of the existing order, were scandalised by the prevalent corruption, and made no effort to hide their virtuous indignation. Langland's "Vision of Piers the Plowman," which was already famous, bears striking witness to this state of mind.[1] Like Wycliffe, Langland had no wish for a revolution, but the puritan fervour which inspired both might easily give birth to fanaticism in less well-regulated minds, and it did in fact exert a strong influence on certain leaders in 1381. Letters couched in obscure and grotesque language,[2] which were passed from hand to hand for the encouragement of the rebels, bear the impress of mysticism. It is also remarkable that during the destruction of the palace of the Savoy in London, the rebels were forbidden to steal anything on pain of death. It is, however, true that elsewhere, and even in London, the lowest greed was often the motive of the crimes they committed, and in many places the insurgents were nothing more than vulgar robbers. The ideas of the religious reformers had widespread influence only in so far as they provoked attacks against the property and the temporal power of the clergy.

**Social aspects of the rising**

To speak of a social rising would be more correct. It was not merely that the distribution of the lands of the clergy, the abolition of serfdom, the repeal of the statutes of labourers, were explicitly demanded by the rebels of Kent and Essex in their interviews with the king; but most of their doings were acts of social warfare. The nobles were terrorised and humiliated; the rich were attacked; manorial customs

1. See J. J. Jusserand, *L'Epopée mystique de W. Langland.*

2. The text of these mysterious letters is given in *Knighton* (R. S.), ii. 138 sqq.; Walsingham, *Hist. Ang.* (R. S.), ii. 33 sqq.; and translated by Oman, *op. cit.*, pp 43 sqq.

were repudiated, and all record of them was as far as possible destroyed; prescriptive rights were enlarged; there was much pillaging and many evictions. Nevertheless, even this campaign was lacking in unity. In one county, the rebels thought only of filling their pockets without care for the morrow; in another, they respected the forms of law, and their sole concern was to obtain from their lords charters duly sealed. Nowhere did they suggest that the land should be made common property.

In a word, the political, religious, and economic crisis explains the revolt of 1381; but no definite theory—political, religious, or social—suggested to the rebels a consistent and logical line of conduct. The fire broke out in 1381 not because great agitators, men with principles and a programme, kindled a flame which little by little covered the realm, but because, if I may use the expression, England was full of inflammable material and at the mercy of a spark. It must not be supposed, however, that there was any lack of agitators to excite popular passion. A statute of May 1382 tells us of the activity of wandering preachers who raised their voices at fairs and wherever they could find an audience, preaching "divers matters of slander, to make discord and dissension between the divers estates of the said realm, as well temporal as spiritual, to the disturbance of the people." It is probable that wandering monks and clerks had for long excited the people against the rich. One of them indeed is well known. For twenty years before the revolt the itinerant preacher John Ball[1] advocated in town and country the overthrow of the government and society.[2] But it was not he or, it seems, any other agitator of note who led the first rebels. When Essex and Kent rose up he was in prison.

**Lack of principles and leaders**

**Agitators**

**John Ball**

1. Cf. a note of Stubbs, *Const. Hist.*, ii. 473, n. 1.

2. See my *Memoir* on *Les Prédictions populaires, les Lollards et le soulèvement des travailleurs anglais en 1381* in *Etudes d'Hist. du moyen age dédiées à Gabriel Monod*, pp. 373 sqq.

The brand which suddenly kindled the fire was the Poll Tax, voted by the Parliament of 5 Nov. 1380 to raise money for an expedition to France. With the exception of beggars, every lay person of the realm over fifteen years of age had to pay a shilling (three groats). In each village the strong were to help the weak, but no one should pay less than a groat or more than twenty shillings.[1] This impost fell very severely on the poor, much more so than the Poll Tax of 1379.[2] The object of the government was to conciliate the rich, and to make humble folk contribute more largely than before. Moreover, there were villages where it was impossible for the strong to help the weak, because no one was strong: and thus in adjacent districts, according as they possessed wealthy inhabitants or not, the poor might be taxed at quite different rates. Everything, therefore, tended to excite opposition. Finding the people in an ugly temper, the collectors often allowed the village constable to supply them with false lists, which estimated the population at a figure much lower than the actual one. But the government quickly perceived the fraud, and as early as 2 January 1381 the sheriff and the escheator of each county were ordered to supply the exchequer with exact information as to the number of those liable to contribute.[3] Finally, on 16 March, the king set up in sixteen counties commissions empowered to revise the assessments and to exact payment from every one who had hitherto evaded the imposition. This measure was suggested by the sergeant John Leg. It was shown, for example, that in Norfolk 8,005 names, in Suffolk 12,904, had been omitted.[4] Even the corrected lists which were then drawn up gave a total much inferior to what might

**The Poll-tax**

1. See the passage cited in Stubbs, *Const. Hist.*, ii. 470, n. 3.
2. *Ibid.*, 468. In 1379 the rich were taxed at a much higher rate, and those in humble circumstances all paid a groat.
3. *C. P. R.*, 1377-81, pp. 627-8.
4. Powell, *Rising in East Anglia*, p. 6.

have been expected,[1] a fact which proves that many people had fled to avoid the tax and had joined the army of vagabonds and outlaws.

**General irritation**

The doings of these commissions put the last straw on the patience of the people. The sixteen counties where they had been set up were all, or almost all, affected by the rising. It is absolutely certain that the weight and the unjust assessment of the tax, coupled with the foolish determination of the government to get the full amount, were the direct cause of the revolt. Wherever they could, the rebels burnt the poll-tax rolls, maltreated the collectors, and sought out the sheriffs and escheators who had been commissioned to revise the assessments and to arrest those who resisted. One of their victims in London was John Leg. The evidence of the facts, the assertions of the chroniclers, and the admissions of the parliament of Nov. 1381[2] all point in the same direction. The peasants rose on a question of taxation; and, to repeat what was said above, they rose at this time because they were in a state of revolutionary excitement[3] for the various reasons which we have mentioned.

1. The lists of the Poll Tax of 1377 furnish a total of 1,355,201 persons over fourteen years of age, and the list of 1381 a total of 896,451 persons above fifteen. In Essex and in Kent, the counties where the revolt first broke out, the figures fell from 47,962 (1377) to 30,748 (1381), and from 56,557 to 43,838 (Powell, *Rising, App.* I). In an otherwise interesting chapter on the Poll Tax, Mr. Oman (*op. cit.*, pp. 22 sqq.) has, in dealing with these figures, made mistakes which have been pointed out by Mr. James Tait (*Eng. Hist. Rev.*, 1907, p. 162).

2. See my *Introduction*, pp. lvii sqq.

3. " Plures ligei . . . in comitatibus Cancie et Essexie insurrexerunt et ut mala per eosdem *longe ante precogitata* facilius ad finem ducerent in diversas et magnas turmas se congregaverunt " (Inquisition of 1382, in Réville, *op. cit.*, app. II, no. 10, p. 196, n. 4).

(2)

## GENERAL CHARACTERISTICS AND RESULTS OF THE RISING.

This is not the place for a detailed history of the revolt: and we shall limit ourselves to pointing out its character in each district and emphasising certain features which are passed over by Stubbs.

The chancery of Richard II fixed 1 May as the approximate date of the beginning of the rising,[1] and there is in fact every reason to believe that very early in the month the collection of the poll-tax occasioned disturbances in Kent and Essex. The first documents bearing a precise date refer to Essex.

**Disorders in the south-east during May**

Essex was a poor county, which, as we have seen, was for long subject to the oppression of the forest law. The burdens of serfdom were heavy,[2] and bitter discontent prevailed. The people of Essex rose in a body, villeins, artisans, and rich landholders. They played a prominent part in the movement. It was they who remained longest in arms; and they worked enthusiastically to spread the revolt, sending emissaries to distant parts with instructions. In this county the first signal of rebellion seems to have been given by the villagers of Fobbing, led by one Thomas, surnamed Baker from his trade. In conse-

**The outbreak of the rising in Essex**

1. ". . . Ipse fuisse debuit unus illorum qui Fflandrenses in Colchestre tempore rumoris, videlicet inter primum diem maii, anno regni nostri quarto, et festum Omnium Sanctorum extunc proxime sequens, interfecerunt" (Réville, *op. cit.*, App. II, no. 61). ". . . In insurrectionibus a primo die maii anno regni nostri quarto usque festum Omnium Sanctorum tunc proxime sequens qualitercumque factis . . . " (*ibid.*, no. 219).

2. See especially Clark, *Serfdom on an Essex Manor, 1308-78* (*Eng. Hist. Rev.*, 1905, pp. 479 sqq.).

quence of the second assessment of the poll-tax, a supplementary contribution was demanded of them. They declared that they would not pay a penny more. On being "sternly threatened" by the royal commissioner, they sought help in the neighbouring villages. Certain justices of the peace were sent to Brentwood to restore order: but they were driven away on 30 May by bands from the villages along the Thames between Barking and Corringham. This was unquestionably the first centre of the insurrection.[1]

**Effect on London**

These events were at once reported in London, and caused great excitement. London was a restless city, a field of frequent agitations, whether political, social, or religious. In 1377 and 1378 the attempts to bring Wycliffe to trial had occasioned serious riots, and men's tempers had not been soothed by the news which for the past year had been arriving about the disturbances in Flanders and Paris. Several aldermen were hostile to the government and to William Walworth the mayor.[2] Some of the inhabitants[3] considered that the book of the constitutions of the city was only fit to be burnt. Others were awaiting an opportunity to settle personal quarrels: among these was Thomas Faringdon, a citizen of good family, who thought he had a grievance against Robert Hales the treasurer.

1. See the inquisition published *Trans. Essex Archæol. Soc.*, New Series, i. 218-9. Also the anonymous chronicle published by G. M. Trevelyan (*An Account of the Rising of 1381, Eng. Hist. Rev.*, 1898, p. 510). Cf. the other documents cited in my *Introduction*, pp. lxx-i. The anonymous chronicler gives very full information, which corroborates what was put forward in my *Introduction* as to the starting-point and cause of the rising in Essex; but I cannot agree with Mr. Oman in his opinion that we should adopt this account in its entirety and prefer it to that of the inquisition.

2. William Walworth, fishmonger, was mayor from March to October, 1381. See A. B. Beaven, *The Aldermen of London in the time of Richard II* (*Eng. Hist. Rev.*, 1907, p. 525).

3. As, for instance, the brewer Walter atte Keye, who on 14 June was looking for "liber de constitucionibus civitatis Londoniarum, vocatus le Jubyle," in order to burn it, and who wished to set fire to the Gildhall (Réville, *op. cit.*, App. II, No. 32).

At the end of May or beginning of June, some of the Londoners—among them Thomas Faringdon and two butchers—went to the assistance of the bands which had just gathered in Essex to drive off the collectors and the justices. At the instigation of the new-comers, a number of Essex men set out for London, burning on their way the house of Robert Hales, and those of the sheriff and the escheator of the county.[1] Others crossed the Thames to lend help to the rebels in Kent.

Kent

Kent was not unprosperous, and villeinage was rare in the county: but, like the lower orders in London, the people were of a revolutionary temper, no doubt because it was in Kent that all military adventurers landed on their return from France. On 2 June a mob which had gathered on the right bank of the Thames, at Erith, began its exploits by invading the abbey of Lesnes;[2] and on the following days it marched through Dartford, Rochester, Maidstone, and Preston, forcing the monks and gentry to follow it, destroying and pillaging the houses of certain rich men, throwing open the gaols, and burning all repositories of official records. The systematic destruction of the records of the justices of the peace and the tax-collectors shows what strong feeling had been aroused by the administration of the Statutes of Labourers and the imposition of taxation. After being repeatedly reinforced by the malefactors whom they everywhere set at liberty, the rebel force reached Canterbury on 10 June. They began to seek for archbishop Sudbury, whom in their ignorance they regarded as largely responsible for the country's misfortunes. He was away, and they had to content them-

1. Réville, no. 10; *Essex Archæol. Soc. Transactions, New Series*, i. 217 sqq.

2. According to the author of the anonymous chronicle edited by Mr. Trevelyan (p. 511) the initial cause of the rising in Kent was the arrest of a serf, alleged to belong to a knight of the king's household, who had him imprisoned in Rochester Castle. The rebels, if we are to believe this authority, besieged the castle in order to set him free. It is a fact that, according to one of the judicial records found by Réville (*op. cit.*, p. 187, no. 3), a band under Robert Cave, a baker, released and carried away a certain Robert Bellyng, who had been imprisoned in the castle in question.

selves with sacking his palace and the houses of certain others whom they mistrusted, and with cutting off the heads of three "traitors."[1] At this date, the whole of east Kent was in a state of insurrection; and the district was overrun by hordes of rebels, plundering, burning the records of collectors and escheators, and breaking open prisons. In Thanet, where serfdom still existed, the services and customary dues of the villeins were declared to be abolished.[2]

**March on London**

On 11 June, the rebels of Kent and Essex who on the previous day had entered Canterbury, set out for London, headed by John Ball, whom they had just released from prison,[3] and by two new leaders, Jack Straw and Wat Tyler.

Jack Straw was regarded by contemporaries as one of the chief popular leaders; but we know very little either of him or of the part which he personally played.[4] As for Wat Tyler, he suddenly appears in history during the march to Canterbury. According to the anonymous chronicler, it was after the taking of Rochester (6 June) that the men of Kent "chose as chieftain Wat Teghler of Maidstone to maintain and counsel them."[5] The rebels passed through Maidstone on 7 June,[6] and Tyler may have joined them there: but it is doubtful whether he was a native of Maidstone, since juries from various places in

1. The executions rest on the authority of the anonymous chronicle.

2. Flaherty, *The Great Rebellion of 1381 in Kent* (*Archæologia Cantiana*, 1860, vol. iii); Réville, *App.* II, nos. 1 sqq; Powell and Trevelyan, *Peasants' Rising*, pp. 4 sqq.; cf. the anonymous chronicle edited by Trevelyan, p 512.

3. He was in the archbishop's prison at Maidstone (*Chron. Hen. Knighton*, ii. 131), which was forced on this same day, 11 June (Powell and Trevelyan, *Peasants' Rising*, p. 9).

4. The confession put into his mouth by the chronicler Walsingham (see Stubbs, *Const. Hist.*, ii. 474) is, I think, almost certainly spurious. F. W. Brie (*Wat Tyler and Jack Straw, Eng. Hist. Rev.*, 1906, pp. 106 sqq.) has tried to prove that the two names are applied in the records to one and the same person. This theory, however, cannot be accepted. The best chronicles and the rolls of parliament distinguish clearly between Wat Tyler and Jack Straw. It is likely that the latter name was a corruption of Rakestraw, and that the rebel leader was called Jack Rakestraw.

5. P. 512. 6. Réville, *App.*, ii, nos. 1-3.

Kent—Faversham, Downhamford, and Maidstone itself—asserted that he was born in Essex.[1] Nor is it certain that he was a tiler, as a chronicler affirms,[2] for at this time the name no longer necessarily denoted the profession of its owner. It is tempting to suppose that Wat Tyler was a wandering adventurer,[3] who had served in the French wars, and now put his military experience at the service of the rebels. His resolute spirit, his daring, the authority which he acquired over his companions, would be adequately explained by this hypothesis. Froissart, moreover, states that Tyler had served as a man-at-arms in France;[4] and whatever may have been said of his trustworthiness, Froissart, though certainly guilty of much inaccuracy and confusion in his account of these events, had nevertheless collected much precise information, which is often confirmed by official documents.

**Conclusions concerning the beginning of the revolt**

Such were the beginnings of the rebellion. It arose almost simultaneously in Essex and Kent, on the shores of the Thames, the occasion being the collection of the poll-tax. The irritation felt by so many against the great landholders, the justices, the royal officials, the "traitor" ministers, added to the inflammatory advice of certain daring leaders, transformed a riot of tax-resisters into a revolution. After ten days the flames were blazing in so many places at once that very vigorous action would have been necessary to quench them. But the government seemed paralysed by the failure of the feeble measures it adopted at the beginning of the trouble. The great lords and military commanders who

1. The authorities are printed by Flaherty, *loc. cit.*, pp. 92 sqq., and by Powell and Trevelyan, *op. cit.*, p. 9.

2. "Unus tegulator de Estsex" (*Eulogium Historiarum*, (R.S.), iii. 352). Cf. Kriehn, *op. cit.*, pp. 459 sqq.

3. The vagueness of the statements as to his origin supports this conjecture. At Smithfield, a "valet" in the king's train declared that Wat Tyler was the greatest thief in Kent, and that he recognised him as such (*Chron. anon.*, ed. Trevelyan, p. 519).

4. Ed. Luce-Raynaud, *Soc. Hist., Fr.*, x. 108.

were then with the king hesitated to call the nobles to arms. Helped by treachery, the rebels had everything their own way for several days.

**London and the suburbs, 12—15 June**

Thanks to the accounts of the chroniclers, historians have long been familiar with the tragic events which came to pass in London and the neighbourhood from 12 to 15 June:[1] the pillaging of the archbishop's manor at Lambeth and the marshal's at Southwark; the rescue of the prisoners in the King's Bench and the Marshalsea (12 June); the abortive attempt at a meeting between the young king and the rebels at Blackheath;[2] the entry of the rebel bands into London; the burning of the Savoy, the palace of the duke of Lancaster, and of the property of the Hospitallers, whose prior was the treasurer Hales, one of the "traitors" (13 June); the interview between Richard and the insurgents at Mile End, and his promise to enfranchise all the villeins in the realm; the murder of the archbishop and the treasurer at the Tower, and massacres in the streets of the city (14 June); Wat Tyler's meeting with the king at Smithfield, followed by his death and the dispersion of the rebels (15 June). The documents discovered since Stubbs summarised the history of these events throw no fresh light on the apparent desertion by Richard of the archbishop and the treasurer: and it is still impossible to explain how and why they fell into the hands of the angry mob in a stronghold which was evidently capable of successful defence against the rebels.[3] Nor has greater certainty been

1. See my *Introduction*, pp. lxxx–xcvi; Oman, *Great Revolt of 1381*, pp. 46 sqq.

2. The Anonymous Chronicle (pp. 513 sq.) confirms most of Froissart's account of this episode, and adds a few details of its own.

3. The author of the Anonymous Chronicle tries to justify the king, but his account clearly shows that when Richard left for Mile End nothing was done to ensure the safety of the Tower. The chronicler says that before setting out, Richard advised the archbishop and those with him to make their escape by the river. Sudbury tried to do so, but the notice of the rebels was drawn by the cries of a woman who recognised him, and he went back to the Tower. Realising that he had no hope of escape "l'archevesque chanta sa messe devotement en la Toure

attained regarding the events of 15 June. Notwithstanding Froissart's evidence, it is certain that the interview at Smithfield was desired by the king and his advisers, but the development of the action and the death of Tyler still seem to have been the result of chance.[1] The field thus remains clear for theories.[2]

et confessa le prior de la Hospitall de Clerkenwell et autres; et puis oya deux messes ou trois et chanta la *Comendacione* et *Placebo et Dirige* et les VII salmes et la latinée et quant il fust a *Omnes sancti orate pro nobis*, le comens entreront et [traierent] le archevesque hors de sa chapelle en la toure" (ed. Trevelyan, pp. 516-7). The rebels wandered at will through the Tower: "Thomas at Sole, ville de Gravesend, se cognovit esse infra cameram domini regis in Turri Londoniensi in crastino Corporis Christi et cum gladio suo lectum domini regis fincit" (Powell and Trevelyan, *op. cit.*, p. 10).

1. According to the Anonymous Chronicle, the king replied personally to the demands put forward by Wat Tyler, all of which he granted, with a reservation of the rights of the crown. At this stage none of his train dared to speak. Tyler, however, aroused the anger of the king's followers by rinsing his mouth and drinking in the king's presence. As he was remounting his horse a "valet" of Kent who was present cried that he recognised Tyler, who was the greatest thief in the whole of his county. Wat Tyler rode at him to kill him; but Walworth, interposing, exchanged blows with Tyler, and wounded him, while another valet of the king's household, coming to the mayor's aid, cut at him several times with his sword. Tyler spurred his horse and fled; but he soon rolled from his saddle and fell to the ground. Warned by his shouts, the rebels were preparing to help him, when Richard put himself at their head and succeeded in persuading them to follow him. Walworth went to seek reinforcements; and the insurgents were surrounded. Tyler was found in a room of the hospital of St. Bartholomew; Walworth had him carried out into Smithfield, and he was beheaded in the presence of his associates (ed. Trevelyan, pp. 519 sqq.).

2. Mr. Kriehn argues (*op. cit.*, pp. 472 sqq.) that Tyler's death is best explained as one of the political murders "that darken English history." The various precautions taken before the meeting at Smithfield (Richard II's prayers at Westminster; the selection of a place quite close to London; the cuirass worn by Walworth under his cloak), and the speed with which the London loyalists arrived to surround the rebels—these facts, he thinks, show that Tyler's murder was premeditated and that he walked into a trap. It may have been so: but the facts relied upon by Mr. Kriehn can be explained on other grounds.

Mr. Powell thinks that a secret understanding, based on common enmity towards John of Gaunt, existed between Richard and the rebel leaders (*Rising in East Anglia*, pp. 58 sqq.). This, he says, would explain the readiness with which, on the death of Tyler, "the rebels transferred their allegiance to the king." His language, however, is misleading; for Richard had never ceased to be regarded as king by the insurgents. It is moreover difficult to think that such tortuous schemes could have been planned and carried out by a mere youth. For our part, we are disposed to accept the account of the Anonymous Chronicle, and to assign to chance a large share in the events of the day.

On the other hand, the causes of the temporary success of the movement have been more clearly revealed, and the mental attitude of the insurgents in south-east England can be described with some confidence. If the conduct of the king's supporters remains mysterious and suspicious, the records have now shed a very clear light on that of the rebels and their accomplices.

**Connivance of certain aldermen**

The judicial documents discovered by Réville establish the complicity with the insurgents of a number of Londoners who played a very active part during the time from 13 to 15 June. "The London mob," says Stubbs, "sympathised with the avowed purposes of the rebels." Sympathy was felt not only by the mob. At least three aldermen played false to Walworth the mayor. One of them, the fishmonger John Horn, was sent to meet the rebels. They were wavering, and half disposed to go home. Horn's mission was to strengthen this inclination. So far from doing so, however, he urged them to push on to London, where, he said, they would be given a hearty welcome and good cheer; and during the next night he in fact admitted several of the leaders to the city and put them up at his house. Finally, on the 13th, he went to Blackheath displaying a royal standard, and declared to the rebels that in the capital they would find none but friends. They accordingly set out, intending to cross the Thames at London Bridge. The defence of the bridge had been entrusted by the mayor to another alderman, Walter Sybyle; he, however, hindered the citizens from preparing resistance, and when the rebels arrived from Blackheath, let them pass without even a pretence of opposition. A third alderman, William Tonge, flung open Aldgate, on the east of the city, to the bands from Essex. In short, London was delivered to the insurgents by aldermen hostile to the mayor.[1]

1. Réville, Document no. 10; cf. Froissart, x. 110. On the subsequent acquittal of the aldermen, see my *Introduction*, p. lxxxiii, n. 3. Cf. a document printed by Powell and Trevelyan, *Peasants' Rising*, p. 30.

Once the rebels were inside the walls, Londoners made use of them and directed their movements. John Horn set himself up as redresser of wrongs, and pronounced sentences. It was certainly at the instigation of Londoners that the insurgents destroyed the Savoy and the Hospital.[1] Many victims of the massacres of 14 June must have been pointed out to their murderers by citizens. Thomas Faringdon and his friends had spent the previous night drawing up proscription-lists.[2] Particular animosity was shown towards those in the service of the duke of Lancaster, who was an object of hatred to a whole party in the city, his surgeon and one of his esquires being slain. A large number of Englishmen and Flemings[3] were beheaded in the streets: some of these were considered "traitors," as for instance the financier Richard Lyons; but very often the sole motive was personal enmity or jealousy of foreign competition. Along with many tragic episodes, the judicial records narrate mean and almost humorous incidents, which are yet very significant; and we can see Londoners terrorising their creditors, holding worthy citizens to ransom, and, by a turn of the hand, bringing long actions-at-law to a favourable termination.[4] During this time, as Froissart well puts it, the peasants from Kent and Essex, crowded in the narrow streets, "knew not what they wanted or what they were seeking, but followed one another about like cattle."[5]

**Misdeeds of the Londoners**

1. Réville, Documents, nos. 10 sqq.

2. "Recepit secum noctanter plures principales insurrectores, videlicet Robertum de la Warde et alios, ymaginando illa nocte et cum aliis sociis suis conspirando nomina diversorum civium que fecit scribi in quadam cedula, quos vellet decapitare et eorum tenementa prostrare" (Réville, no. 10, p. 195).

3. That Flemings were murdered is attested by documents of all kinds, and by the Anonymous Chronicle (p. 518), which also mentions the pillaging of the houses of Lombard merchants. [Chaucer's one allusion to the rising concerns the massacre of the Flemings (*Nonne Prestes Tale*, lines 573 sqq.)]

4. Réville, nos. 10, 32, 33, 34, 36.

5. Froissart, x. 98.

When on 15 June Walworth came from Smithfield to collect reinforcements, Sybyle and Horn strove by spreading false reports to prevent the Londoners from leaving the city.[1] This time, however, they failed: and the citizens, exasperated by the disorder and violence they had witnessed or endured, brought help to the king.

**The reaction of 15 June**

Inhabitants of London, urged by political or private hatred, or merely by self-interest, were therefore largely responsible for the murders and other misdeeds committed in the capital. Without their intervention, it would be impossible to understand the demoralisation of the government during the four days or the violence shown towards foreigners.

But it was not only the Londoners who were bitter against the "traitors." The Anonymous Chronicle shows how widespread was this feeling, by which indeed, at times of disturbance, the popular imagination is nearly always inflamed. The malcontents of Essex and Kent were convinced that everything would be well if only they could rid the world of John of Gaunt, the archbishop and the treasurer, the bishop of London, and some of the chief officers of finance and justice. From Blackheath they sent a naïve message to the king, demanding the heads of these traitors. Next day the peasants gathered outside the Tower, refusing to move when urged to go to Mile End; and the mob on St. Catherine's wharf declared that they would not go away "before they had the traitors in the Tower": and, as we know, they kept their word. The removal of the "traitors" they associated with the welfare of the king, which they professed themselves anxious to promote. Before entering London they had told a messenger from the king that they were coming "for his salvation and the destruction of those who were traitors to him

**Attitude of the rebels of Kent and Essex**

**Loyalty to Richard**

1. Réville, no. 10, p. 194.

and the realm."[1] They had as watchword: "With whome haldes you?" and anyone challenged had to reply, on pain of death: "With Kinge Richarde and the true comons." When they met the king at Mile End, they knelt, protested their loyalty, and forthwith demanded the death of the traitors. At Smithfield, they showed the same respect for the king's person. Even Tyler seems to have used no threats against Richard himself. At the beginning of the interview, he assumed the demeanour and tone of a demagogue who knew his manners and was anxious to put his sovereign at his ease. He took the young king by the hand and shook it, saying, "Brother, be of good cheer and merry, for within the next fortnight,[2] you shall have more joy of the commons than ever you had before, and we shall be good comrades."[3]

**Tyler's demands**

The men of Kent and Essex, however, did not confine themselves to demands for mere personal changes in the government. They wanted large social reforms, and on this head the Anonymous Chronicle gives information which seems worthy of belief.[4] At Smithfield the rebels declared that they would not go home without a charter of liberties. When asked to explain what his followers wanted, Tyler said that every law except the statute of Winchester must be repealed, that outlawry must be abolished, that villeinage must cease, and that the property of the church must be divided among the people, except what was necessary for the maintenance of the clerks and of a single bishop, one being quite enough for the whole

1. The statements of the anonymous chronicler on this attitude of the rebels of the south-east are moreover confirmed by other documents of high authority, notably by John Malvern's most valuable continuation of the *Polychronicon Ranulfi Higden*: "Hi quidem de Cantia . . . praetendentes se defensuros regem et regni commoditatem contra suos traditores" (Higden, ed. Lumby (R. S.), ix. 1).

2. Mr. Kriehn (*art. cit.*, p. 471) strangely misinterprets this phrase: *quinsane* means "fortnight," and not the tax known as a fifteenth.

3. *Anon. Chron.*, ed. Trevelyan, pp. 513 sqq.

4. *Ibid.*, pp. 519 sqq.; cf. Kriehn, pp. 477 sqq.

country. The rebels thus demanded the abandonment of every measure taken since 1285 for the maintenance of public order and the regulation of labour: above all, it seems, they wanted the Statutes of Labourers repealed. The reason for their objection to outlawry was that this sentence was pronounced on wandering labourers who refused to obey the statutes. The demand, already put forward at Mile End, for the abolition of villeinage was only to be expected, for Tyler was speaking on behalf of peasants, many of whom still laboured under the burdens and humiliations of serfdom. Another chronicler adds that the peasants also claimed liberty to hunt and fish, and this too was very natural. As for the reform of the church, it was urged by religious agitators, and especially by John Ball, who had been with the rebels for several days. According to the anonymous chronicler, Ball preached the very doctrine that Tyler put forward in his speech: there was to be no bishop in England except one archbishop, who should be Ball himself; no religious house might have more than two monks or canons; and ecclesiastical property should be distributed among the laity. "Wherefore," continues the chronicler, "he was held among the commons as a prophet." [1] The charter of liberties which Tyler wished to dictate to the king may therefore be taken as a faithful summary of the hopes which the leaders had excited in the breasts of the insurgents from Essex and Kent.

**Essex and Kent after 15 June**

When the rebels lost their chief and dispersed to their homes, nothing more was heard of this programme of reforms. For some weeks still, the peasants of Kent and Essex committed robberies, held their enemies to ransom, plundered game-preserves, and burned legal documents: while in Thanet villeins who continued to "do services" were threatened with death.[2] But all this was mere

1. *Chron. Anon.*, p. 512.
2. *Archæologia Cantiana*, iii. 71 sqq.; *Trans. Essex Archæol. Soc.*, New Series, i. 218; Réville, nos. 59 sqq.; Powell and Trevelyan, *op. cit.*, pp. 3 sqq.

vulgar lawlessness, and soon ceased in the face of repressive measures.

**Spread of the rising**

Notwithstanding the speedy collapse of the ambitious schemes of Wat Tyler, Jack Straw, and John Ball, the rising spread far and wide. Stubbs recognised that it had a wide range: but he lacked the evidence necessary to form an accurate estimate of the extent of the revolt. The documents collected by Réville, however, show that the greater part of the realm was affected.

**Surrey and Sussex**

Middlesex and North Surrey were as profoundly disturbed as Essex and Kent, and supplied some of the bands which invaded London or sacked the suburbs. The Essex rebels, who were particularly daring and enthusiastic, sent emissaries as far as the middle of Surrey, and both in this county and in Sussex, there were risings of the peasants, which occasioned serious disorder, though unfortunately little is known about it.

**The rising spreads towards the south-west**

Nearly all the south-western counties—Berkshire, Hants, Wilts, and Somerset—were influenced sooner or later by the wave of revolution. The towns of Winchester, Salisbury, and Bridgewater witnessed violent disturbances which evidently sprang from local jealousies, though we know that the people of Bridgewater went to seek inspiration in London.[1]

**Hertfordshire**

In Hertfordshire the revolt broke out on the evening of 13 June, at the news of the success of the rebellion in London; but as Réville has shown, the rising in this county had a distinct character of its own.[2] The insurgents were almost all peasants, most of them free and many in comfortable circumstances. In Hertfordshire much land was held by

1. Réville, *App.* II, series A and F. Cf. my *Introduction*, pp. xcviii sqq., cvii sqq. On the rising in Surrey, see also Powell and Trevelyan, *op. cit.*, p. 17: on that in Sussex, Page, *Umwandlung der Frohndienste*, p. 41, n. 37.

2. Réville, pp. 3—49.

the church, especially by the powerful abbey of St. Albans, and the tenants were severely treated. The ecclesiastical landlords refused to enfranchise their serfs, to abandon their monopolies, to renounce their privileges of hunting and fishing, and to extend the customary rights of the peasantry. The town of St. Albans had repeatedly demanded certain liberties, but in vain.[1] Stimulated by both the example and the precepts of the rebels of the south-east, the peasants rose in rebellion, but their object was merely to obtain a few specific reforms.

**St. Albans**

After receiving a message calling on them to take their weapons and join the men of Kent and Essex in London, the inhabitants of St. Albans set out for the capital on the morning of the 14th. In the presence of Jack Straw, they took the oath of obedience to the king and the people, received instructions and promises of aid from Wat Tyler, and obtained from Richard a letter urging Thomas de la Mare, the abbot, to gratify their wishes. They had no thought of demanding the distribution of the abbey lands among themselves. As defined in the charter which the abbot granted them on 16 June, their requests were modest and practical.

**Charters granted by the abbey**

In the first place, rights of passage, pasture, hunting and fishing were conceded them. The monopoly of the abbey mill was abolished, and it was agreed that the abbot's bailiff should no longer interfere in the government of the town. With these concessions they declared themselves satisfied. The other tenants of the abbey had assembled from all parts of the county, and they also demanded charters. Thomas de la Mare granted about a score, conceding the enfranchisement of the villeins, rights of hunting and fishing, rights of pasture, and the abolition of certain rents and monopolies. At Dunstable, in the same way, the tenants of the priory made no attempt to assert their independence, but they

1. See Stubbs, *Const. Hist.*, ii. 477, n. 1.

**Dunstable**

forced the prior to grant them a charter. Criminal offences were comparatively rare. The peasants of Hertfordshire had listened to the appeals and the advice of the rebels of London and Kent, but on reflection they regarded the whole rising as nothing more than an excellent opportunity for settling old differences with their lords, and they showed folly only in believing, even after the death of Wat Tyler and the dispersion of the rebels at Smithfield, that charters and seals would secure them in the possession of the liberties they had won at so little cost.

**The midlands**

The whole of west Hertfordshire had been involved in the rising. The neighbouring counties of Bucks and Beds were also disturbed. Tenants repudiated their services, and furnished recruits to the army of rebels which invaded London. Oxfordshire, Warwickshire, and Leicestershire, and perhaps even the counties bordering on Wales, did not escape the infection.[1] Even in the Wirral peninsula the serfs of the abbot of Chester rose up against their lord, though this seems to have been an ill-timed and isolated outbreak.[2] In general, the intensity of the movement declined rapidly as it spread westwards. Towards the north-east, on the other hand, it retained its strength as far as the limits of East Anglia, and stopped only in the distant county of York.

**Cambridgeshire**

In Cambridgeshire the revolt was general on 15 June. It lasted only four or five days, but was very violent.[3] The first outbreak was excited by messages from London, brought by a

1. See the documents in Réville, *App.* II, series E and G; cf. my *Introduction*, pp. cii, cvi sqq. and notes.

2. We know of this revolt from documents published by Powell and Trevelyan, *Peasants' Rising*, pp. 13 sqq. According to royal letters of 1 Sept. and a statement of the juries, the abbot's serfs took arms on 29 July in the hundred of Wirral, after the reading of a royal proclamation forbidding assemblies and riots. It is not known if they had already rebelled in the month of June.

3. For the rising in Cambridgeshire and Hunts see Powell, *Rising in East Anglia*, pp. 41–56; Réville, *App.* II, series B.

small landholder of Bottisham, John Greyston by name, who had witnessed the murders in the Tower, and by a London saddler, John Staunford, who had lands in the county. Conspicuous among the leaders were two rich landlords, John Hanchach and Geoffrey Cobbe. The rebels copied the exploits of Wat Tyler's followers, burned manorial and royal records and the Poll Tax rolls, drove away lawyers and tax-collectors, and threw open the prisons; but, as in the neighbouring county of Hertford, and for similar reasons, their hatred was principally reserved for the great ecclesiastical proprietors. The peasants were forbidden to pay dues and to perform their services. The houses of the Hospitallers, the monastery of Ely, Barnwell Priory, and Corpus Christi College were entered and plundered. As the burgesses of Cambridge were jealous of the privileges of the University, it had to promise to abandon them. At the same time its archives were in great part destroyed. In Huntingdonshire the wealthy abbey of Ramsey was attacked by rebels from Cambridgeshire and the south, and in Northants the abbot of Peterborough narrowly escaped death at the hands of his tenants. This last county was one where, in recent years, the villeins had formed unions to refuse labour services.[1]

**Hunts and Northants.**

In Suffolk and Norfolk[2] different economic and social conditions prevailed. Both counties were rich. Villeinage was not unknown; but there were numerous freeholders, many estates held on lease, and even villages without lords. The independence enjoyed by a large section of the peasantry only stimulated feelings of jealousy and irritation towards the wealthy landlords, especially such as were not ready to abandon the ancient

**Peculiar conditions in Norfolk and Suffolk**

1. For the rebellion in Northants, see my *Introduction*, pp. xxxix, cvii and the notes.

2. See Réville's account, *op. cit.*, pp. 53—128; also Powell, *Rising in East Anglia*, pp. 9–40.

methods of cultivation. Among these was the abbot of Bury St. Edmunds, one of the most powerful lords in England, who resolutely maintained the burdens of serfdom on his enormous estates, and refused to grant privileges to the inhabitants of Bury. A large number of people, moreover, were engaged in manufacture, especially in Norfolk. The artisans complained of the execution of the Statutes of Labourers, and chafed at the competition of the Flemish workmen who had come to teach them the textile crafts and had afterwards settled in their midst. The rebels of Suffolk and Norfolk were rural tenants, craftsmen, and small traders. A good many discontented priests, and a few gentlemen with an eye to plunder, like Sir Roger Bacon and Sir Thomas Cornard, threw in their lot with them. They took arms at the instigation of messengers sent by the men of Essex, but it is improbable that they followed instructions from Wat Tyler.[1] Their revolt developed on lines of its own, and had no real connection with any other movement save that in Cambridgeshire. Nevertheless it was very violent.

**The rising in Suffolk**

The East Anglian rising broke out on 12 June on the borders of Suffolk and Essex. On that day a priest fallen on evil times, John Wrawe by name, gathered a band of men and plundered a manor belonging to the financier Richard Lyons, who two days later was to be executed by the rebels in London. The Suffolk insurgents had other leaders, but John Wrawe was the most daring and the most influential. He organised plundering expeditions, which he directed in person or entrusted to lieutenants, and the booty gathered was divided among the rebels. Apparently his sole object was to fill his own pockets.[2] The chief scene of his exploits was Bury St. Edmunds,

1. See on this subject the remarks of Réville, *op. cit.*, pp. 61 sqq.
2. See the *Declarations of John Wrawe*, published in Réville, *App.* I, pp. 175—182.

Bury St. Edmunds

and the inhabitants, while anxious not to compromise themselves, cunningly urged him on to subvert the authority of the abbey. The abbey was then under the provisional rule of a prior, John of Cambridge, who had done his best to maintain the interests of the house against the townspeople. He and another monk were murdered. The monastery was compelled to grant a charter of liberties to the people of Bury. Another band sought out and seized a high dignitary, Sir John de Cavendish, the chief justice of the King's Bench, whose estates were in Suffolk, and who had been commissioned to superintend the execution of the Statutes of Labourers. Cavendish was beheaded.

The rising in Norfolk

As early as 14 June the south of Norfolk had been infected by the revolt. Three days later the whole county was involved. It was one of those which suffered most severely.

Uncontrolled pillage in West Norfolk

In the western part of Norfolk the innumerable misdeeds revealed by judicial documents were in general only acts of pillage or revenge, perpetrated by bands or by isolated individuals. So great was the panic they created, that the rebels were allowed to drive off the cattle, carry away money and food, and dismantle houses. At Lynn they hunted out the Flemings and put them to death. Except in two cases, however, there was in this district no attack on manorial rights. In east Norfolk, on the other hand, the revolt took the form of a social war, conducted with a definite plan of campaign by one daring leader. A dyer of Felmingham, Geoffrey Listere, succeeded in securing his recognition as "king of the commons" by all the rebels of this region. He created a war-chest by setting apart a proportion of the plunder and by levying "customs." His aim was to overthrow all existing authority and to abolish all privileges. Tax-rolls and title-deeds were burnt; lawyers were held to ransom, or

Social war in East Norfolk. Geoffrey Listere

even set in the pillory and executed; the nobles were forced, on pain of death, to follow the "king of the commons" and obey him. The charter of privileges possessed by Yarmouth market was torn up, and several Flemings were executed to please the English craftsmen. For some ten days Norfolk was turned upside down.

**Yorkshire**

The agitation spread from there into Lincolnshire, and even into Yorkshire.[1] On 23 June, at the news of what had been happening "in the regions of the south," a revolutionary government was set up in the remote town of Scarborough. The royal officers were driven away, and the property of the rich was seized. Beverley[2] and York[3] had long been in a disturbed state, and it is difficult to decide how far the disorders which broke out in these towns during July should be regarded as a result of the great rising. According to the juries, however, the hostility of the parties who were contending for the municipal government of York revived at the news of the rising in the south, and the central authority asserted the existence of a link between the troubles in this town and the "diabolical revolt in Kent and Essex."[4]

**No resistance to the rising at first**

Though the rising was disconnected, though its leaders were of mediocre ability, we see that it spread from its birth-place in the south-east far towards the Scottish and Welsh borders without meeting any serious obstacle. A kind of bewilderment had paralysed the king's council and all those whose class interests were imperilled. The monks did little but bemoan their fate. The men of Huntingdon, who shut their gates against the rebels, were regarded as heroes; elsewhere people allowed themselves

1. See the documents in Réville, *App.* II, series C and D.; C. T. Flower, *Beverley Town Riots* (*Trans. Royal Hist. Soc.*, New Series, vol. xix, pp. 91 sqq.).
2. See Mr. Flower's account, *loc. cit.*, pp. 79 sqq.
3. Cf. Stubbs, *Const. Hist.*, ed. 1903, vol. iii, chap. 21, sect. 488.
4. Réville, Documents nos. 152 and 180.

to be robbed, except those who tried to gain some advantage from the general disorder. The high-born set the example of cowardice, though Sir Robert Salle, who lost his life for protesting against the crimes of the Norfolk mob, must be excluded from this reproach. But in all parts men of gentle blood submitted to be led about by the rebels, joined in their demands, and obeyed their leaders.

**Reaction after the death of Tyler**

It was only on the death of Wat Tyler that courage returned to the king's advisers. Helped by the mayor and the loyal aldermen of London, the veteran Robert Knolles and the other military leaders with the king at last succeeded in organising resistance, their efforts being seconded in another sphere by lawyers like Bealknap and Tressilian.[1] From 18 June onward the chancery despatched letters to the royal officials for the re-establishment of peace in the disturbed counties. The disturbance had been so profound that order could not be restored as quickly as it had disappeared, and up to the month of November the outlook remained troubled. Nevertheless at the end of June it was already clear that the government had the upper hand.

**Suppression of the revolt**

Military measures were necessary in Essex and Kent. The peasants, though defeated, continued to demand liberties, and in the month of October they again tried to kindle a general insurrection.[2] In Suffolk, William of Ufford, who had formerly fled in disguise, had his revenge, and undertook the pacification of the county from which he

1. For what follows see the documents in Réville, especially series G; cf. his account of the suppression of the revolt in Herts., Suffolk, and Norfolk, pp. 129—172. The repressive measures of the government have received general treatment in my *Introduction*, pp. cxii–cxxviii, to which the reader may be referred.

2. See the documents published by W. E. Flaherty, *Sequel to the Great Rebellion in Kent of 1381* (*Archæologia Cantiana*, iv. (1861), pp. 67–86).

derived his title. The warlike bishop of Norwich, Henry Despenser, marched with an armed force through Northants, Hunts, Cambridgeshire, and Norfolk, and fought a regular battle with the insurgents at North Walsham. In every county the local gentry took their vengeance for the fright they had been given; but there was little slaughter, and the summary execution of Jack Straw has few parallels, even in the cases of very conspicuous leaders.[1] Legal proceedings were everywhere instituted. In a writ issued immediately after his return from Smithfield on 15 June, the king ordered that the guilty should be proceeded against according to the ordinary forms of law. If we remember the barbarous brutality with which the Jacquerie had been punished in France twenty-three years before, this respect for law and legal forms will appear highly to the credit of mediæval England.

**The bishop of Norwich**

**The forms of law observed**

The attitude of the courts was on the whole reasonable and impartial. With the aid of juries of presentment and petty juries, both civil and criminal cases were investigated and tried by commissions which included, on the one hand, the sheriffs and the justices, with Tressilian at their head, and, on the other, persons who had taken the lead in resisting the rebels, like Walworth and Robert Knolles, together with several great lords, like John of Gaunt and the earls of Buckingham, Kent, and Oxford, whose interest it was to display their loyalty. The government kept an attentive eye on the proceedings, for the impartiality of the juries was not above suspicion. It modified certain sentences and sometimes granted pardons. On 12 September the commissioners charged with the investigation of thefts of movable goods were recalled for abusing their powers. Finally, by a series of writs issued in August

**Attitude of the government**

1. Cf. *Rot. Parl.*, iii. 175, no. 1. Even John Ball was formally tried; see Réville, p. 150.

and September, the king suspended the prosecutions and called all cases before the King's Bench.

Parliament, which met in November, and again in January, 1382, was of the opinion that a general amnesty ought to be granted, though it excepted two hundred and eighty-seven offenders. The amnesty was conceded, but the royal officers often disregarded its terms. Certain leaders, though excluded from the amnesty and even condemned by juries, were released. Others, who should have been protected by the general pardon which parliament had obtained, were prosecuted or obliged to buy letters of protection. The pleasure of the king, therefore, determined the fate of many.

**Amnesty granted**

All things considered, however, we must repeat that the measures of repression were mild. If the victims on both sides be counted, the revolt, according to Stubbs, may have cost the lives of seven thousand persons [1] —a figure derived from the chroniclers. Official records furnish scarcely a hundred and ten names of rebels who were hanged or beheaded. This number is evidently below the truth, but cannot be very far from it. There is clear proof that many who were guilty of most serious offences escaped the penalty of death.

**Moderation of the government**

On the other hand, the royal council and the parliaments which met after the revolt, were unanimous in their desire to annul all the acts of the rebels and all the concessions which they had obtained.[2] Apart from damage which could not be repaired, they would leave no trace of the violent effort which the lower classes had made to gain greater independence. Such was the will of king and parliament alike.

**Results of the revolt. The concessions annulled**

Was this intention realised? Rogers asserts that it was not. In his opinion, the victory, though apparently

1. *Const. Hist.*, ii, 482, and n. 5.
2. *Ibid.*, ii. 482 sqq.

**Mistaken view of Rogers**

it had fallen to the king and the nobles, really remained with the peasants, and the social war of 1381 had as a result the virtual extinction of villeinage.[1] This view was accepted by Stubbs. But the records prove that the events of 1381 caused no change in the condition of the peasants.[2] Serfdom continued on the manors where it previously existed. The problem of wages remained as before, and the workmen of the towns, like those of the country, complained of the same evils. The insurrection had only one appreciable result: it had let loose popular passions which retained their violence for many years. The labourers had gained nothing by the revolt; but they drew from it a more bitter consciousness of their grievances. They continued to combine for the increase of wages and the repudiation of services. Every now and then, bands would be formed to burn records, plunder mansions, threaten the justices, or break into prisons; and there was continual fear of the renewal of a general rising.[3] This profound unsettlement of society increased the influence of revolutionary ideas, and the spread of the Lollard heresy was greatly helped through the envy excited by the wealth of the clergy. The desire for the division of ecclesiastical property was now fixed in the popular mind. On the other hand, the great shock of 1381 had inspired those whose privileges were threatened

**The old problems remain**

**Leagues and risings of the villeins**

1. Rogers, *Hist. of Agric.*, i. 8, 26, 89 sqq., 476 sqq., iv. 4 sqq., 71, 92.

2. See my *Introduction*, pp. cxxvii and cxxix sqq.; cf. Feiling, *Essex Manor* (*Eng. Hist. Rev.*, 1911), pp. 334, 336. According to this scholar, the great changes in the manor of Hutton took place between 1424 and 1470. On the real causes of the disappearance of villeinage, see especially E. P. Cheyney, *Disappearance of English Serfdom* (*Eng. Hist. Rev.*, 1900), pp. 25 sqq.

3. Besides the examples which are cited in my *Introduction*, pp. cxxx sqq., see a document concerning a rising of the villeins of the bishop of Bath and Wells in Somerset in 1398 (Powell and Trevelyan, *Peasants' Rising*, pp. 21–23).

with new energy in their defence. During the whole of the following period the reaction was as vigorous as the previous attack. The anxiety to check the current of revolution appears even in the repressive policy adopted against the Lollards. They were persecuted chiefly because they were regarded as instigators of social unrest. The events of 1381, therefore, left profound marks on men's minds. It was long before the privileged classes forgot the fear which they had felt, long before the people forgot their lost opportunity of winning a little more prosperity.

**Resistance of the privileged classes**

The conclusions which we have just sketched may one day be stated more fully, perhaps modified, although they are based on a solid foundation of evidence. Whether the investigation of records will reveal new details concerning the little-known movements which took place, for instance, in the midlands, it is impossible to say: but it is certain that much may still be learned as to the causes, the nature, and the results of the rising by a thorough examination of the judicial documents of the second half of the fourteenth century; for this great task is by no means accomplished. Such researches cannot fail to give much satisfaction to those who undertake them, if the rebellion of 1381 is not only, as Stubbs says, "one of the most portentous phenomena in the whole of English history," but also, as I believe, one of the most significant and most interesting events in the whole history of the middle ages.

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